BEFORE THE INDIANA STATE DEPARTMENT OF HEALTH

AN ADMINISTRATIVE RULES HEARING ON PROPOSED RULES TO PROTECT THE HEALTH, SAFETY AND WELFARE OF PERSONS LIVING IN RAILROAD MOBILE CAMPS--ADDS 410 IAC 6-14

REPORT OF ADMINISTRATIVE LAW JUDGE

This matter came before the duly appointed Hearing Officer, Jill S. Frantz, on the 19th day of June, 2008 at 11:00 a.m., at the Indiana State Department of Health building, in a 2nd Floor Conference Room, at 2 North Meridian Street, Indianapolis, Indiana.

Notice of time and place of this Hearing was given as provided by law by publishing on May 7, 2008 in the Indianapolis Star and the Indiana Register.

Proof of publication was received by the Department and notice and proof are incorporated in the record of this Cause by reference and place in the official files of the Department.

In addition to staff from ISDH, nine other persons appeared at the Hearing, and testimony was received from eight of those persons. Written comments were received from four persons or entities prior to or at the Hearing. The record was left open until June 20, 2008, and only one entity submitted pictures and additional comments. All of the comments and pictures received are attached and incorporated as a part of this Report. The Fiscal Impact Statement is enclosed and incorporated as a part of this Report.

The following is a summary of the written and verbal testimony presented at the Hearing.

- 1. Jeff Bainter is the regional Legislative Coordinator for Teamsters' Union. He submitted a six page report of their comments on the Proposed Rule, and he read those comments into the record at the Public Hearing. (Ex. 1) They are summarized below:
- (A) Add the word "contractors" to Section 1, as the camp car occupants may include contractors and railroad employees.
- (B) Bainter feels that the law requires inside toilets in camp cars. The Proposed Rule should be amended to include the requirements, and to clarify the conflicts regarding this issue in Sections 11(b), 17, and 12(t).
- (C) The Proposed Rule requires only forty-eight square feet per occupant in a camp car, rather than the eighty square feet desired by the Union. Mr. Bainter also cites a conflict in the use of the words "usable floor space", "rooms used for sleeping" and "camp cars," and asks that the terminology be consistent throughout the Rule.
- (D) Mr. Bainter requests that the Proposed Rule be amended to permit longer beds, require greater staggering of beds, and preclude the use of double bunk beds.
 - (E) Is a yard hydrant the same as a faucet? He would like clarification regarding the use

of the terms potable and non-potable water as used in the Proposed Rule.

- (F) The Proposed Rule does not establish an inspection fee nor a penalty system. The ISDH should provide training and training materials to the local health departments in order to allow for consistent enforcement of the law and the Rules.
 - 2. J. Guyott, representing Indiana AFL-CIO supported the Teamsters' comments.
- 3. Paul Beard , representing the Indiana ALJ-CIO also supported the Teamsters' comments.
- 4. T.J. Drake, Vice President of Norfolk Southern Railroad said that, in addition to Norfolk Southern, Union Pacific and perhaps another railroad use some camp cars on their property. Mr. Drake stated that some of Mr. Bainter's comments were more suited to deal with as collective bargaining issues, rather than recommendations for the proposed rule. Mr. Drake also said that when there are emergency crews sent in, due to a disaster such as the recent flooding, many motels are already full of evacuees, and railroad personnel need to be on site to act immediately. Experience has shown that sometimes a five month time period is required to set up accommodations and do the necessary repairs if no camp cars are utilized. Norfolk Southern has been refurbishing camp cars to meet the requirements of the proposed rule, and sixty-two cars are now completed.
- 5. Steve Marvin, also representing Norfolk Southern Railroad, said that at present they have refurbished the camp cars with bunks across from one another, and not staggered. If the bunks were staggered, the occupants would lose their lounging areas. He said that their workers like it the way it is now, without the bunks being staggered.
- 6. Randy Smith, also representing Norfolk Southern Railroad, said that the current camp cars provide 390 to 400 square feet per occupant, and that square footage exceeds the requirements of the proposed rule. Union personnel requested much of what is now being put in the refurbished camp cars, and upgrades were made and will continue to be made. The camp cars that they are currently refurbishing are for four occupants. One car is being completed each week, and 30 to 40 more will be completed to comply with the proposed rules by the end of the year.
- 7. Paul Gilley, also representing Norfolk Southern Railroad, said that the proposed rule, Section 10 (b)(1) requires the railroad to notify the local health department no later than two business days after the mobile camp cars are placed in the county, so that inspections can be made. The railroad does not object to that requirement, but questions how they can assure the safety of the inspectors if they are allowed to inspect without the presence of a railroad company or a union representative. He feel that the unescorted inspector may be in a precarious position where the inspector may be injured due to the activity in the area where the camp car is located, such as a railroad yard. Camps may be located in a railyard where cars are coming and going 24 hours a day, posing a danger to the inspector. Mr. Gilley feels that the railroad personnel must know where the inspector is on the property in order to assure his safety.

Mr. Gilley also expressed concerns regarding security for the railroad, and for the country when inspectors, who have not been subject to any screening, are allowing to wander the property unaccompanied. He feels the inspector should be accompanied by someone who is familiar with the equipment. It was noted by ISDH staff that, during an emergency, the railroad may request that the rules be waived, and the Governor may do so.

On June 20, 2008, Mr. Gilley also submitted a copy of the Proposed Rules with Norfolk Southern's suggested changes highlighted, and, in some cases, explained. These suggestions are minor, and they appear on pages 2 through 4, 9, 10 of Ex. 2. Mr. Gilley also submitted pictures of some camp cars to illustrate how they look after being refurbished. However, the pictures are not captioned, and the quality of the copies is poor. Nevertheless, they are attached as Ex. 3.

- 8. Nelson Becker with Norfolk Southern commented that the contracts between management and labor can resolve the labor relations issues in evidence at the Public Hearing. Those items are not health issues, and should not be under ISDH purview. His company would like to know when all the camp car renovations should be completed. He would prefer that notice of the arrival of camp cars in Indiana be given to ISDH, who can, in turn, notify the local health department. A central place for notification would simplify the process.
- 9. Indiana State Representative Dennis Tyler said that the legislation came about due to concerns about health and safety of employees of the railroads, as well as the health and safety of the communities where the camps exist. He mentioned one area where the camp was near a school, and school children walked through the ground water from the camp car.

In response to some of the comments by Norfolk Southern staff, Mr. Bainter discussed the following issues:

- (A) Other railroads use camp cars in Canada, but he is not aware of railroads other than Norfolk Southern who use them in Indiana.
- (B) The railroad should support the 80 square feet requirement in the Proposed Rule because they say that their cars exceed that now.
 - (C) Cars need to be inspected often because they often get torn up when they are moved.
 - (D) Both railroad company and a union employee should be present during an inspection.
 - (E) The Federal law allows an exception for an emergency inspection.
 - (F) Bainter believes that adequate rest is a health issue, and not a contract issue.
- (G) Prefers to have notice given to local health departments when camp cars are brought into the county. This is because, if notice if given to the ISDH, the camp cars may have moved on before the local health department receives word that the cars are in their county.

Written comments from persons who did not testify at the Public Hearing are summarized as follows:

1. State Representatives Matt Bell and Jerry Torr submitted a letter than they agree

with Norfolk Southern's recommendations regarding inspections held without the presence of a company or union representative. Inspections by an unaccompanied health department employee should be precluded, due to safety and security issues. (Ex. 4)

- 2. Comments were received from two Elkhart County Health Department employees.
- (A) Karla Kreczmer, Manager of Environmental Health Services, (Ex. 5) sees an issue with the proposed Rule due to the fact that they don't have the staff or the resources (time, equipment, people or money) to implement the Rule. She believes they should be inspected by State employees, rather than county health department employees, much as migrant camps are inspected. She feels that having both local and state health department employees being trained to do these inspections is inappropriate and a waste of time and money.
- (B) Mobile railroad camp cars move frequently. If local health departments provide the inspections, there is no way to ascertain if the camp has corrected any violations because they will have moved on before a re-inspection can be done.
- (C) Ms. Kreczmer disagrees with the theory that additional funds will not be required to implement these Rules. She thinks that counties will have to adopt an ordinance (a costly procedure) in order to enforce the Rules. The railroad will also have to pay a different fee for every county they go into. With a State inspection, railroads would have only one fee, and the inspections would be more consistent.
- (D) Ms. Kreczmer does not think that railroad camps are a public health issue. They do not serve the public. Why isn't OSHA involved if the workers don't like the conditions?
- (E) What kind of forms will be used? How many? What kind of a report? How will training of inspectors be accomplished? What if the local department doesn't do the required inspections?
- 3. **MindyWaldron**, an Elkhart County Health Department Administrator, submitted four pages of comments. (Ex. 6) These may be summarized as follows:
- (A) Many of the Proposed Rules were based on others for which ISDH is responsible. The counties have not been trained to inspect this type of facility. Some issues deal with fire, electrical, equipment, ventilation, etc., some of which is under the jurisdiction of the local fire department or the local building department. The Statute appears to mandate that local health officers enforce this law and see to the inspections.
- (B) She is unaware of any notification to local health departments regarding their obligations arising from this law and the rules. A local ordinance will be required, and already overworked staff members will be required to be trained and to implement this Rule. Local monies will also be needed.
- (C) Further, Ms Waldron notes concerns about safety issues for inspectors. Some local health departments have been required to have police escorts when they conduct inspections on the camp cars, due to friction between the railroad employees and the union. At the very least, two employees would need to inspect together in order to assure their safety.
- (D) Due to the varied areas of environmental and safety covered by the Proposed Rule, **teams** of people with various areas of expertise would be required. (Pollution control, food inspection, etc.)

- (E) Costs. Ms. Waldron lists 9 specific cost issues in her comments. (See comments, Ex. 6, page 3)
- (F) Certain definitions are lacking, in Ms. Waldron's opinion, including "reasonable level," "adequate arrangements," and, "aggregate glazed area."
 - (G) Other specific areas of concern are as follows:
 - (i) Determinations on conditions of exterior walls of rail cars.
 - (ii) How does one measure air replacement requirements? Equipment required?
 - (iii) Is a door required between the sink and toilet room?
 - (iv) Which type of food establishment are these facilities?
 - (v) How is water pressure measured? Equipment required?
 - (vi) Local health departments have no jurisdiction over fire safety issues?
- (vii) Local health departments have no jurisdiction over issues related to electrical requirements or utilities.
- (viii) How can a local health department determine that the property is returned to its "original condition" if they don't know what that condition was? Two inspections required? How could this be enforced if no one was on site?

All of the Exhibits referenced above are attached and incorporated into this report. Respectfully submitted to the Executive Board of the Indiana State Department of Health this 26th day of June, 2008.

Jill S. Frantz

Administrative Law Judge



Brotherhood of Maintenance of Way Employes Division of the International Brotherhood of Teamsters

Freddie N. Simpson President

Perry K. Geller, Sr. Secretary-Treasurer

June 17, 2008

Via Hand Delivery & U.S. Mail

Indiana State Department of Health 2 North Meridian St. Indianapolis, IN 46204

To Whom It May Concern:

These comments are submitted in response to the proposed 410 IAC 6-14 concerning the health safety and welfare of persons living in mobile camps. These comments are being transmitted by U.S. Mail and delivered by hand prior to the close of the public hearing concerning this rule and are, therefore, timely.

As you know, labor railroad camps predate the 20th century and by the 1970s most railroads had begun to phase out their use. By the early 1990s, Norfolk Southern stood alone as the only railroad that continued to utilize the use of these mobile labor camps. Over time, the conditions of these camps deteriorated through lack of attention owing to industry trends including the increased reliance on large production crews covering large territories and the reduction of building maintenance crews. This lack of attention resulted in deplorable conditions and a steadily rising number of complaints. Attempting to spur various agencies to action concerning those deplorable conditions, the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters found it necessary to advocate for legislative change. The legislation giving rise to the Department's rule-making authority concerning mobile camps is a direct result of the advocacy of our union and we are, thus, uniquely situated to provide commentary and uniquely interested in the end result of this rule-making effort.

The Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters extends is appreciative of the efforts of Mr. Whitston and the Indiana State Department of Health to develop these rules and of the opportunity to submit commentary on the proposed rules. As a preliminary matter, we would urge that the rule promulgation process move forward with all deliberate speed. Though it is true, as Mr. Whitston notes, that the use of mobile camp cars has been the subject of some discussion in the U.S. Congress, the success of those efforts remains uncertain and presidential veto remains possible. Moreover, attached you will find a clarification concerning preemption addressed which instructs states to continue their efforts to regulate camp cars to protect workers in the absence of federal action. Indiana should heed that instruction and move forward with the promulgation process. We do, however, have several concerns regarding the proposed rule as reflected below.

Scope of Rule

The definition of camp cars to be regulated by 410 IAC 6-14 is unduly narrow. Indiana Code 16-19-3-4.4(a) grants to the Department the authority to promulgate rules "necessary to protect the health, safety and welfare of *persons* living in mobile camps. . . ." (emphasis added). That authority is not specifically limited to the welfare of persons who are classified as "employees" of a particular employer. The rule should embrace that broader mission and protect all persons subject to the camp car living arrangements by adding "contractors" to definition of camp car at 410 IAC 6-14-1. The rule should read " . . . inhabited by railroad or contractor maintenance of way employees . . . " This definition change is also necessary to make the Indiana rule consistent with the current federal legislation.

Toilets

We object to the various provisions of the rule that permit the railroad to forego the provision of inside toilets in each camp car and request that those provisions be rewritten. Indiana Code 8-9-10-1 clearly requires the provision and maintenance of toilets within the camp car itself. As amended in 2007, the code requires

- (b) Every railroad company within the state of Indiana shall provide and adequately maintain a heated room or rooms at all terminals, headquarters, and *mobile camps* in the operation of the railroad company, for the use of its employees.
- (c) *Each room* required by subsection (b) must contain adequate wash basins, shower-baths, *inside toilets*, and sufficient lockers for checking employees' clothing.

(emphasis added). To the extent that the proposed rule does not conform to that requirement it is inappropriate and is void as a matter of law.

Although the plain language of the Indiana Code requires inside toilets in each and every camp car, it is also important to note that this was one of the main thrusts of the introduced version of SB 371. In a meeting between all interested parties (including Mr. Whitston) and the authors of the bill, the authors agreed to substitute the Department's request for rule-making authority for the more prescriptive conditions contained in the earlier bill draft based upon two explicit conditions to be contained in resulting rules: (1) that all camp cars used for sleeping would be equipped with a toilet inside each car; and (2) that a minimum of eighty square feet per occupant would be afforded to each person. Thus, this proposed rule draft is inconsistent with both the plain language of the Indiana Code and with the agreement which secured passage of the Department's rule-making authority. Indeed, even Norfolk Southern, the only rail company in the nation continuing to use camp cars, understood that the resulting

rule would require the provision of toilets in each camp car used for sleeping and has already begun reinstalling toilets into these cars.

The following changes are necessary in order for the rule to comply with the plain meaning of the applicable statute.

410 IAC 6-14-11(b)	Amend to require the provision of toilets in each car used for sleeping
410 IAC 6-14-17	Amend to reflect that toilets must be provided in each car used for sleeping and within 200 feet of any other camp car.
410 IAC 6-14-12(t)	Eliminate conflicts with requirement that each car used for sleeping be equipped with adequate wash basins, shower-baths, and inside toilets.

Floor Space

As noted above, one of the two conditions upon which the authors of SB 371 agreed to the Department's request for an amendment granting rule-making authority when the bill was progressing toward final passage was that a minimum of eighty (80) square feet per occupant would be required. Again, Norfolk Southern has begun retro-fitting its camp cars with an eighty (80) square foot per occupant allowance. Yet here again the proposed rule falls short and only requires a scant forty-eight (48) square feet per occupant. The BMWED-IBT strongly objects to the permitting of such narrow quarters and would note that even federal prisoners serving time in Super Max prison cells are afforded a minimum of eighty (80) square feet each. Indeed, enemy combatants held at Guantanamo fair a bit better than the forty-eight foot allowance sought by the proposed rule.

It should also be noted that the proposed rule contains no definition of "floor space" [410 IAC 6-14-14(a)] and no definition of "usable floor space," [410 IAC 6-14-12(c)] but nonetheless employs the two phrases with respect to different calculations. According to the rules of statutory construction, these differences will be interpreted to have some meaning, but without the inclusion of appropriate definitions, we can are left to guess at the difference that is intended. Obviously, depending on the definition or method of calculation for the terms, we may very well be opposed to the use of differing terms.

Additional confusion is inserted into this equation for the minimum floor space per occupant by the alternate use of "rooms used for sleeping" and "camp cars" in the section establishing that minimum. Does a "room used for sleeping" described in 410 IAC 6-14-14(a) consist of an entire "camp car" limited to housing four persons described in the second sentence of section 14(a)? And is the same as a

"camp car in a mobile camp used for sleeping" described at 410 IAC 6-14-11(b)? Again, the rules of statutory construction would urge a court to seek different meaning in the different words employed in the rule and the BMWED-IBT objects to the ambiguity unnecessarily inserted into the rule's requirement for minimum floor space per occupant.

It should be noted that the camp cars currently in use by Norfolk Southern in Indiana have a total square footage of four hundred (400). Thus, limited the number of occupants to four (4) while failing to expand the minimum floor space per occupant to eighty (80) would encourage conditions which would have a negative impact on the "health, safety and welfare of persons living in mobile camps." It may encourage the railroad to utilize only a portion of the car for living quarters and to store materials or supplies in the remaining portion of the car. Or, it may actually encourage the use of smaller camp cars. (In Illinois, Norfolk Southern has actually suggested they may switch to RVs left over from Hurricane Katrina, a proposal fraught with obvious health and safety concerns.

The following changes are necessary to meet the commitments made by the Department during the legislative process and to avoid conflicting interpretations of the rule's provisions.

410 IAC 6-14-14(a)	Amend to require a minimum of 80 square feet per occupant.		
	Amend to remove possibility that "rooms used for sleeping"		
	means anything other than the entire camp car used for sleeping.		
410 IAC 6-14-12(c)	Eliminate use of differentiating terms to describe floor space.		
410 IAC 6-14-1 et seq.	Adopt a workable definition of floor space that is consistent		
	throughout the rule and eliminate use of different phrases to		
	describe floor space. Harmonize the manner in which camp		
	cars used for sleeping are described so that no different meaning		
	will be assumed under rules of statutory construction.		

Sleeping Arrangements

The rule appears to permit beds which are too small to accommodate many of the workers for whom they are intended to provide sufficient rest to fuel a day of heavy labor. By permitting the heads of beds to be only six (6) feet apart, 410 IAC 6-14-14(d) implies that the beds may be only six foot in length and may be placed head to toe. It should also be noted that the term "sleeper" as used with regard to rail cars typically means a separate sleeping and private sleeping compartment. Obviously, this arrangement is preferable, but differs from the open bunk provisions currently common in camp cars. If the intention is to continue to permit open bunk arrangements, it would be preferable to stagger the beds so that workers would not be required to sleep with heads only six feet apart and toes adjacent to heads only thirty (30) inches away.

The BMWED-IBT also objects to the proposed rule's allowance of double bunk arrangements at 410 IAC 6-14-14(e). Double bunks contribute to a night of constant interrupted sleep, with its inherent negative health consequences. And permitting double-bunking is unnecessary at best. Norfolk Southern's current model car on which its ongoing efforts to retrofit camp cars are based is fitted with single bunks. Moreover, Illinois' current effort to promulgate a parallel rule permits only single bunks. Obviously, it would be desirable for the two rules to be consistent in that regard.

410 IAC 6-14-14(d)	Amend to permit longer beds and to require greater staggering of		
	so that people are farther from one another while sleeping.		
410 IAC 6-14-14(e)	Amend to require single bunks		

Plumbing Issues

The BMWED-IBT would request clarification of two points related to the portions of the rules applicable to potable and non-potable water supplies. First we seek an explanation of the requirement found at 410 IAC 6-14-15(c) and believes that the use of examples may be useful so long as they are explicitly not all-encompassing. In addition, with regard to 410 IAC 6-14-15(g) and 410 IAC 6-14-16(d), we would seek a clarification of whether a yard hydrant is a "faucet" within the meaning of the rule.

Inspection Fees, Guidelines and Penalties

It should also be noted that one of the chief arguments in support of its rule-making authority proffered by the Department during the legislative process was the need to establish an adequate inspection fee and the need to establish a penalty system. Yet the rule fails to do either.

Finally, the BMWED-IBT would suggest that the Department prepare checklists, guides and other training materials for local health officers and offer training in the new rule to those officers to encourage uniform and thorough enforcement of any rule resulting from this promulgation process.

Again, we thank you for the opportunity to provide these comments and are, of course, available to provide any additional feedback desired as the rule progresses through the promulgation process. We strongly urge you to revise the provisions of the rule noted here so that the rule moves the protection offered to persons housed at mobile camps forward, rather than backward and so that the rule is consistent with the plain meaning and the intent of the legislature.

Thank you for your consideration of these comments.

Sincerely,

Jeff Bainter

Regional Legislative Coordinator

BMWED-IBT

jbainter@bmwewash.org



Indiana State Department of Health Proposed Preliminary Rule Submitted to the ISDH Executive Board for Preliminary Adoption - March 12, 2008 Railroad Camp Car Rule

Norfolk Southern Proposed Final Rule - June 19, 2008

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

LSA Document # 07-490

DIGEST

Adds 410 IAC 6-14 to protect the health, safety, and welfare of persons living in railroad mobile camps, including provisions relating to sanitary conditions, light, air, safety protection from fire hazards, equipment, maintenance, and operations of the camp, sewage disposal through septic tank absorption fields, and other matters appropriate for the security of the life and health of occupants. Effective 30 days after filing with the Publisher.

410 IAC 6-14

Rule 14 Railroad Mobile Camps

SEC. 1. 410 IAC 6-14 IS ADDED TO READ AS FOLLOWS:

410 IAC 6-14-1 "Camp car" defined

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3

Sec. 1. "Camp car" means a railroad car in a mobile camp that is inhabited by railroad maintenance of way employees for the normal activities of daily living. (Indiana State Department of Health; 410 IAC 6-14-1)

410 IAC 6-14-2 "Department" defined

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3

Sec. 2. "Department" means the means the Indiana state department of health. (Indiana State Department of Health; 410 IAC 6-14-21)

410 IAC 6-14-3 "Easily cleanable" defined

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3

Sec. 3. "Easily cleanable" means readily accessible, impervious, and with exposed surfaces that are sufficiently smooth that residue can be effectively removed using normal cleaning methods. (Indiana State Department of Health; 410 IAC 6-14-3)

410 IAC 6-14-4 "Food grade" defined

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3

Sec. 4. "Food grade" means constructed of materials that are:

- (1) smooth;
- (2) non-toxic;
- (3) non-absorbent;
- (4) easily cleanable;
- (5) easily sanitized;
- (6) heat resistant;

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- (7) corrosion resistant;
- (8) impact resistant; and
- (9) abrasion resistant.

(Indiana State Department of Health; 410 IAC 6-14-4)

410 IAC 6-14-5 "Health officer" defined

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3

Sec. 5. "Health officer" means the health officer of a local health department, or his or her authorized representative. (Indiana State Department of Health; 410 IAC 6-14-5)

410 IAC 6-14-6 "Mobile camp" defined

Authority: IC 16-19-3-4.4

Affected: IC 8-9-10-1; IC 16-19-3

Sec. 6. "Mobile camp" has the meaning set forth in IC 8-9-10-1(a). (Indiana State Department of Health; 410 IAC 6-14-6)

410 IAC 6-14-7 "Refuse" defined

Authority: IC 16-19-3-4.4

Affected: IC 16-19-3

Sec. 7. "Refuse" means all solid wastes, including garbage, rubbish, and ashes, but excluding body wastes. (Indiana State Department of Health; 410 IAC 6-14-7)

410 IAC 6-14-8 "Sewage" defined

Authority: IC 16-19-3-4.4

Affected: IC 16-19-3

Sec. 8. "Sewage" means all body waste, and all water-carried waste derived from ordinary living processes. (Indiana State Department of Health; 410 IAC 6-14-8)

410 IAC 6-14-9 "Toilet" defined

Authority: IC 16-19-3-4.4

Affected: IC 16-19-3

Sec. 9. "Toilet" means a device provided for individual convenience in the sanitary disposal of body wastes. (Indiana State Department of Health; 410 IAC 6-14-9)

410 IAC 6-14-10 Administration, required notifications, and fees

Authority: IC 16-19-3-4.4

Affected: IC 16-19-3-4.4; IC 16-20-1-2; IC 16-22-8-6

Sec. 10. (a) This rule shall be enforced by local health officers under IC 16-20-1-19 and IC 16-22-8-34(a)(22).

(b) A railroad company that houses maintenance of way employees in a mobile camp shall:

(1) no later than two (2) business days after its employees arrive [insert: in Indiana], notify the local health department with jurisdiction in the area in which the mobile camp is located of the existence of the mobile camp [delete highlighted text and insert: notify the Indiana State Department of Health of the location and approximate length of stay];

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NS explanation: We have multiple mobile gangs working all over our extensive system and are maintaining in excess of 1500 miles of mainline track alone in Indiana. As the name suggests, these gangs are mobile and many times move and stay at one location for a short duration. We suggest the administration of fees and notification oversight should be handled directly with the Indiana State Department of Health. By centralizing the oversight and administration process, we both will eliminate the duplication of facilities inspections and concentrate collective internal and external resources to assure the protection of health, safety, and welfare of the persons living in these railroad mobile camps.

and

- (2) request and permit inspection by an authorized representative of the local health department to ensure that the conditions of the camp cars are safe, sanitary, healthful, and in compliance with this rule. [insert: A complete copy of all inspection reports will be submitted to railroad company for their record keeping.]
- (c) An inspection fee necessary to cover all the expenses incurred in the process of conducting [insert: initial] inspections of a mobile camp shall be paid by the railroad company operating the mobile camp. [delete highlighted text and insert: ; and subsequent inspections at the behest of BMWE or their representative will be borne by the BMWE or their representative if no infraction(s) has been found.] The inspection fee shall be paid to the:
- (1) local health department [delete highlighted text and insert: the Indiana State Department of Health for their administrative handling and distribution] under IC 16-20-1-2; or
- (2) municipal corporation under IC 16-22-8-6; before initiation of the inspection [delete highlighted text]
- (d) The mobile camp owner or operator shall immediately [delete highlighted text and insert: upon receipt of reliable information of suspected communicable or contagious disease] notify the local health officer of any suspected communicable or contagious disease within the mobile camp [delete highlighted text and insert: the Indiana State Department of Health within one (1) business day]. (Indiana State Department of Health; 410 IAC 6-14-10)

410 IAC 6-14-11 Mobile camp sites

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3

Sec. 11. (a) Mobile camps shall be located:

- (1) on well-drained sites;
- (2) in areas free from flooding or ponded water; and
- (3) in areas free of any other conditions that will cause or contribute to a health hazard.
- (b) Every camp car in a mobile camp used for sleeping shall:
- (1) be equipped with lavatories and body washing facilities; and
- (2) have a potable water supply and a means of sewage or excreta collection and disposal that complies with this rule.
- (c) Camp cars shall be located such that their floors are reasonably level. (Indiana State Department of Health; 410 IAC 6-14-11)

410 IAC 6-14-12 Physical facilities

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3

- Sec. 12. (a) Camp cars shall be structurally sound, be maintained in a clean, safe and sanitary condition, and be in good repair. In addition:
 - (1) camp car exterior walls must be free of cracks and holes;
 - (2) camp car interior walls must have easily cleanable, smooth, hard surfaces;
 - (3) camp car floors and floor coverings must be easily cleanable;

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- (4) camp car exterior doors, and any operable windows, shall be fly-proof and tight-fitting [delete highlighted text and insert: shall be equipped with screens and tight-fitting];
- (5) camp car doors must have latches or door knobs; and
- (6) camp car ceilings must be a minimum of seven (7) feet from the floor.
- (b) Adequate arrangements for storing of clothing and personal effects for each occupant shall be provided.
- (c) Each habitable room of a camp car shall have at least one (1) window or skylight opening directly outdoors. The aggregate glazed area of each habitable room's openings must be at least ten (10) percent of the room's useable floor area, and the total openable area shall be at least forty five (45) percent of the minimum required glazed area. Windows and skylights shall fit tightly in their frames and the operable portion must open easily and be fitted with a latching mechanism.
- (d) Every camp car occupied between June 1 and September 30 must be provided with an airconditioning system capable of maintaining a temperature of seventy-eight (78) degrees Fahrenheit or less.
- (e) Camp car ventilation shall be sufficient to provide adequate oxygen and to remove exhaled air and undesirable odors during periods of occupancy. Every camp car must be provided with a mechanical ventilation capable of replacing the air at least six (6) times per hour. Any rooms or other area of a camp car where toxic gases or odors are produced shall be mechanically exhausted to the outside.
- (f) An operating mechanical exhaust device is required in rooms that have toilet and body washing facilities, capable of replacing the air in the facility at least six (6) times per hour.
- (g) Any camp car that is occupied between October 1 and May 30 shall have operable heating equipment of capacity adequate to maintain a temperature of at least sixty eight (68) degrees Fahrenheit in each habitable room. A heating device provided for cooking does not satisfy this requirement.
- (h) No portable heaters other than those operated by electricity may be utilized or provided. Unvented kerosene heaters and catalytic type heaters are prohibited.
- (i) At least twenty (20) foot-candles of light must be provided throughout all habitable rooms of a camp car.
- (j) Toilet and body washing facilities shall be screened, partitioned or otherwise configured to prevent viewing of the interior when the entrance door is open.
- (k) Entrances to rooms that have toilet or bathing facilities shall be fitted with self-closing doors [delete highlighted text and insert: with doors capable of being fully closed].
- (I) Restrooms shall be equipped with lavatories or other handwashing facilities, or such equipment shall be installed in an adjacent room through which the users must pass upon egress from the restroom.
- (m) An adequate supply of soap and individual sanitary towels in dispensers, or other approved handdrying devices, shall be provided convenient to all handwashing facilities. Common towels are not acceptable. If individual sanitary towels are provided, a suitable container for used towels shall also be provided.
 - (n) An adequate supply of water, under pressure, shall be provided at all handwashing facilities.
- (o) Lavatories, soap dispensers, hand drying devices, toilets, body washing facilities and all related fixtures shall be kept clean and in good repair.
- (p) Body washing facilities shall be supplied with hot and cold water, under pressure. Hot water provided for body washing facilities shall be maintained at or between one hundred five (105) degrees Fahrenheit and one hundred twenty (120) degrees Fahrenheit. An anti-scald device shall be provided to automatically control the temperature of hot water supplied to body washing facilities so that it cannot exceed one hundred twenty (120) degrees Fahrenheit. Either mixing-type faucets or automatic mixing devices shall be utilized to control the mix of hot and cold water supplied to each body washing facility.
- (q) Toilets shall have open-front seats and shall be made of impervious material [insert: or other approved manufactured toilet apparatus [e.g. "Microphor" Microflush Model LF-310 Stainless Steel please reference manufacturer's specifications]

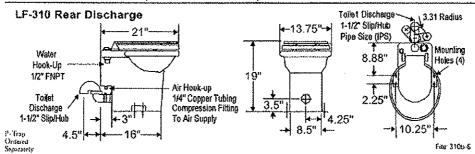
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Submitted to the ISDH Executive Board for Preliminary Adoption - March 12, 2008 Railroad Camp Car Rule

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MICROFLUSH® MODEL LF-310® STAINLESS STEEL

ROUGH-IN DIMENSIONS (ALL DIMENSIONS +/- 0.5")



GENERAL INFORMATION

Installation of the Microflush toilet is similar to a conventional toilet and is suitable for replacing either standard fixtures or for use in new construction. The following are general installation requirements.

AIR SUPPLY

An air line from a compressed air source must be supplied. An air pressure regulator must be installed at the air tank to provide a constant pressure 60 PSI at the toilet. Sizing of compressors and air lines is shown on the Compressor sizing chart. Air Connecting Kits are available (see Air System Accessories).

WATER SUPPLY

Water is to be supplied to the toilet by SHIPPING INFORMATION a standard 1/2" water line with a mini- Weight: 35 lbs.; Volume: 3.9 cubic mum of 20 PSI and a maximum of 50 feet PSI and a constant pressure with a variation of no more than ±3 PSI for

pressured water supply models. Gravity water pressure models operate at 14 PSI atmospheric with 6 feet of head at sea level. Higher water pressure can prevent toilets from flushing. If higher pressures are anticipated, install a pressure reducing valve in the water line. Ideal pressure is 35 PSI. Optional gravity water pressure models are available - contact factory for details.

TOILET SEAT

Toilet seat post holes are on standrad 5-1/2" centers. The sent is provided with most units, contact factory regarding specific models (see Toilet Accessories.

WARRANTY

Limited one-year on all component parts. Detailed warranty available upon request.

CHANGES IN DESIGN

Continuing a policy of research and development, Microphor, Inc., reserves the right of price, product, or design change without notice or obligation.

DOWNWARD DISCHARGE

An optional LF-310 Bottom Discharge Kit, P/N 93702, can be ordered to convert rear discharge models to downward discharge with a 12" rough-in from the back wall.



452 East Hill Road Willes, CA 95490 USA Phone: 707,459,5563 Toll Free: 800.358.8280 Fax: (707) 459-6617 E-mail: into@microphor.com www.microphor.com www.wablac.com

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Indiana State Department of Health

Proposed Preliminary Rule

Submitted to the ISDH Executive Board for Preliminary Adoption - March 12, 2008 Raifroad Camp Car Rule

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. All toilets shall be partitioned as necessary to provide individual stalls. Stall partitions shall extend to a height of not less than five and one-half (5 ½) feet from the floor and the bottom shall not be more than one (1) foot above the floor. Stall partitions shall be of smooth surface, impervious, easily cleanable material; wood surfaces are not acceptable.

- (r) An adequate supply of toilet paper shall be provided in a dispenser at each toilet.
- (s) Covered disposal facilities shall be provided in those restrooms provided for use by female employees.
- (t) Based upon the number of employees served, toilets, urinals, hand washing, and body washing facilities shall be provided as follows:

Number Of	Body Washing			
Employees	Facilities	Lavatories	Toilets	Urinals*
1-10	1	2	1	1
11-25	2	3	2	1
2649	4	5	3	2
50-74	6	6	4	2
75-100	8	7	5	3
Over 100	**	***	****	****

^{*} A toilet may be substituted for a urinal.

(Indiana State Department of Health; 410 IAC 6-14-12)

410 IAC 6-14-13 Cooking facilities

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3; IC 16-42

Sec. 13. Mobile camps, and the camp cars therein, shall comply with IC 16-42-1, IC 16-42-2, IC 16-42-5 and 410 IAC 7-24, where applicable. (Indiana State Department of Health; 410 IAC 6-14-13)

410 IAC 6-14-14 Sleeping facilities

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3

Sec. 14. (a) At least forty-eight (48) square feet of floor space per occupant must be provided in rooms used for sleeping. There shall be no more than four (4) persons housed in a camp car at one time.

- (b) If bedding is provided by the mobile camp owner or operator, it shall be clean and washed before use by a new occupant.
 - (c) Foam bed mattresses shall be provided with easily cleanable mattress covers.
- (d) Beds shall be arranged so the heads of the sleepers are at least six (6) feet apart and there is at least thirty (30) inches between the sides of the beds.
- (e) Vertical separation between the top of the lower mattress of a double deck bunk and the upper bunk shall be a minimum of twenty seven (27) inches. The vertical separation between the top of the upper mattress and the ceiling shall be a minimum of thirty six (36) inches.
 - (f) Triple and quadruple deck bunk beds are prohibited.
- (g) At least one (1) camp car used for sleeping at a mobile camp must be equipped with a functioning weather radio that meets standard CEA-2009, "Receiver Performance Specification for Public Alert Receivers," with the following features:
 - (1) tone alarm activation; and
 - (2) specific alert message encoding, or similar technology.

(Indiana State Department of Health; 410 IAC 6-14-14)

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^{**} Two (2) additional body washing facilities for each twenty five (25) employees, or fraction thereof.

^{***} Two (2) additional lavatories for each twenty five (25) employees, or fraction thereof.

^{****} One (1) additional toilet for each twenty five (25) employees, or fraction thereof.

^{*****} One (1) additional urinal for each fifty (50) employees, or fraction thereof.

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Raifroad Camp Car Rule
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410 IAC 6-14-15 Potable water supply

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3

- Sec. 15. (a) Potable water shall always be available for culinary and drinking purposes.
- (b) A source of drinking water shall be located in, or within two hundred (200) feet of each camp car. An adequate supply of potable bottled water will meet this requirement.
- (c) There shall be no direct physical connection between a mobile camp water supply and any source of pollution through which the camp water supply might become contaminated.
- (d) If single-use drinking cups are provided, an adequate supply shall be maintained at each potable water dispenser.
 - (e) Common drinking cups are not permitted.
- (f) Drinking water facilities shall be constructed of impervious, easily cleanable materials, and shall be kept clean and in a good state of repair.
- (g) Devices shall be installed to protect against backflow and back-siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless a backflow prevention device is installed. (Indiana State Department of Health; 410 IAC 6-14-15)

410 IAC 6-14-16 Nonpotable water supply

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3

- Sec. 16. (a) The water supply and distribution system must be capable of maintaining water pressure at not less than twenty (20) pounds per square inch (psi) during periods of peak water demand. The water supply shall have capacity to meet total daily water demands.
- (b) There shall be no direct physical connection between a mobile camp water supply and any source of pollution through which the camp water supply might become contaminated.
- (c) Water supply facilities shall be constructed of impervious, easily cleanable materials, and shall be kept clean and in a good state of repair.
- (d) Devices shall be installed to protect against backflow and back-siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless a backflow prevention device is installed.
- (e) Hoses used to fill water tanks shall be constructed of food grade materials, and shall be capped at both ends when not in use. (Indiana State Department of Health; 410 IAC 6-14-16)

410 IAC 6-14-17 Sewage and excreta disposal

Authority: IC 16-19-3-4.4

Affected: IC 13-18-12 IC 16-19-3

- Sec. 17. (a) Toilet facilities shall be located in, or within two hundred (200) feet of, each camp car.
- (b) No person shall throw, run, drain, seep, or otherwise dispose into any of the surface waters or ground waters of this state, or cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise disposed into such waters, any organic or inorganic matter that would cause or contribute to a health hazard or water pollution.
- (c) All sewage or excreta generated, including gray water, shall be disposed of via a public sewer, or by a wastewater management businesses licensed pursuant to IC 13-18-12.
- (d) Sewage and excreta holding tanks must be pumped before the accumulated waste exceeds ninety (90) percent of the tank's liquid holding capacity. (Indiana State Department of Health; 410 IAC 6-14-17)

410 IAC 6-14-18 Refuse disposal

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Authority: IC 16-19-3-4.4 Affected: IC 16-19-3-4.4

Sec. 18. (a) Refuse shall be stored in covered, fly-tight, water-tight containers. Refuse can liners (also known as trash bags) constructed of plastic, paper, or similar material may not be stored outside a camp car.

- (b) All refuse containers must be kept in a sanitary condition.
- (c) Mobile camps and the camp cars shall be kept clean and free of litter.
- (d) Refuse shall be collected, stored and disposed of in such a manner that it will not create fly breeding, rodent harborage, odor or smoke nuisance, or a health, fire or safety hazard.
- (e) Refuse shall not be burned, except at an approved disposal site. (Indiana State Department of Health; 410 IAC 6-14-18)

410 IAC 6-14-19 Electrical facilities

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3-4.4

- Sec. 19. (a) All camp car electrical wiring, switches, and lighting fixtures shall be installed and maintained in a safe condition.
- (b) Electrical receptacles shall have wiring and circuit breakers or fuses sized to conform to the amperage of the receptacle they supply.
- (c) Electrical switches, circuit breakers, receptacles, control equipment, and metering devices located in wet places or outside a camp car shall be weatherproof.
- (d) Electrical receptacles shall be grounded and shall not have an open neutral, open hot conductor, or reverse polarity.
 - (e) Splices in electrical wires in accessible locations shall be made using approved junction boxes.
- (f) All light fixtures shall be covered or shielded to protect against injury resulting from bulb breakage.
 - (g) All electrical receptacles and switches shall be shielded to prevent electric shock.
- (h) Unshielded bare electrical wires are prohibited. They shall be wrapped or otherwise covered to prevent electric shock.
- (i) All restrooms and shower/locker room electrical receptacles provided for connection of personal grooming equipment shall be protected by ground fault circuit interrupters to prevent electric shock. (Indiana State Department of Health; 410 IAC 6-14-19)

410 IAC 6-14-20 Gas facilities

Anthority: IC 16-19-3-4.4 Affected: IC 16-19-3-4.4

- Sec. 20. (a) When gas is used, a properly installed system of gas lines and appurtenances that provides gas service adequate for safe operation of appliances and equipment shall be provided.
- (b) All gas outlet risers, regulators, meters, valves or other exposed equipment shall be protected by proper location or other means from mechanical damage by vehicles or other causes. (Indiana State Department of Health; 410 IAC 6-14-20)

410 IAC 6-14-21 Fire protection and safety

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3-4.4

- Sec. 21. (a) Each camp car shall be equipped with a minimum of one (1) 4-A, 60-B:C, ten (10) pound, multipurpose, dry chemical, pressure fire extinguisher that is readily accessible and maintained in an operable condition.
 - (b) Camp car hallways and exits from camp cars must be maintained free of obstructions.

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- (c) Each camp car used for sleeping shall be equipped with a UL listed smoke detector that is kept clean and tested monthly.
- (d) A first aid kit that meets the requirements of American National Standards Institute standard Z308.1-2003 shall be available at each mobile camp. (Indiana State Department of Health; 410 IAC 6-14-21)

410 IAC 6-14-22 Special hazards

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3-4.4

- Sec. 22. (a) No condition shall be created in any camp car that is not conducive to health and safety.
- (b) Camp cars shall be kept free of insect and rodent infestations.
- (c) Neither employees nor visitors may use tobacco in any form in a camp car.
- (d) No flammable, explosive, toxic, volatile, acidic, caustic, radioactive or otherwise hazardous liquid, gas, or chemical shall be used or stored in a camp car except small quantities needed for car maintenance, cleaning, sanitizing, or control of insects or rodents. Such materials shall be used and stored in full compliance with the manufacturer's recommendations as shown on the container label. Additionally, such materials shall be stored in cabinets or in similarly enclosed devices used for no other purpose.
- (e) Poisonous or toxic materials shall not be used in a way that contaminates food, food service equipment, or food utensils. (Indiana State Department of Health; 410 IAC 6-14-22)

410 IAC 6-14-23 Departure

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3-4.4

Sec. 23. Excepting new construction or installations, after departure the property upon which a mobile camp existed shall be restored to its original condition before the arrival of the mobile camp. (Indiana State Department of Health; 410 IAC 6-14-23)

410 IAC 6-14-24 Mobile camp inspections

Authority: IC 16-19-3-4.4

Affected: IC 16-19-3-4.4; IC 16-22-8-6

- Sec. 24. (a) The department, the local health officer or a municipal corporation under IC 16-22-8-6 may enter a mobile camp or a camp car therein, at reasonable times and [insert: upon prior notification, and] upon presentation of credentials, to do any of the following:
 - (1) Inspect facilities, equipment, or records.
 - (2) Investigate [insert: reasonable] allegations, conduct tests, collect samples, or take photographs.
 - (3) Obtain information necessary to the issuance of a permit pursuant to this rule.
- (4) Determine whether any person is subject to, or in violation of, this rule or a permit issued pursuant to this rule.
 - (b) The local health officer or a municipal corporation under IC 16-22-8-6 may conduct either:
- (1) independent inspections of a mobile camp without the presence of a railroad company or union representative; or [delete highlighted text]

NS explanation - Railroading is inherently dangerous work and <u>safety</u> continues to be our foremost Company directive; one which permeates our culture from top to bottom. Allowing an inspector unescorted on our property to perform inspections of the mobile camps puts those individuals in a precarious situation. From a <u>safety</u> perspective, our employees may be working on equipment or getting ready to move a piece of equipment which, unknown to any of those railroad employees, could have an unannounced health inspector performing their duties and are in harms way. These facilities are continuously being set up or taken apart as they move from one location to another – this may be one day or could be a couple of weeks. For this reason alone, we are extremely concerned the law, with the very best of intentions, is

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putting government employees in unnecessarily dangerous situations in a specialized working environment in which they may have little, if any, experience outside their field of expertise.

Secondly and just as important, more often than not these mobile camps are spotted in rail yards. These yards are 24/7 operations with locomotives, rail cars, support vehicles, and railroad personnel moving about continuously. Rail cars of all shapes and sizes carrying commodities of just about every nature are moving through, being switched, or being stored (albeit short periods of time). We also move most of the military's equipment about the country. For these reasons, **security** at these facilities is paramount to our Country and our company's well being. All railroad employees have been thoroughly screened for these obvious security reasons. Having unescorted health personnel (with perhaps no security screening) on our property is at best irresponsible and imprudent, and at worst extremely dangerous and makes securing our property exponentially more difficult.

(2) joint inspections of a mobile camp with the presence of a railroad company [insert: officer] and a [insert]: BMWE] union representative of each craft of employees [deletehighlighted text] working for the railroad company.

NS explanation: Class I railroads, and ours is not exception, have approximately 15 different organized crafts performing the wide-ranging tasks necessary to keep the industry functioning safely and efficiently. There are only a few crafts that have any connection, or even any knowledge, about the specific functions at mobile camp cars and its specialized equipment. Strictly to keep ISDH's inspections focused on the intent of the law, it is our perspective we should concentrate our collective attentions and restrict the input to those that have a vested and knowledgeable interest which would facilitating a more constructive, meaningful dialogue among those who have first-hand experience as to the workings of these mobile camps and its specialized equipment.

(Indiana State Department of Health; 410 IAC 6-14-24)

410 IAC 6-14-25 Incorporation by reference

Authority: IC 16-19-3-4.4 Affected: IC 16-19-3-4.4

Sec. 25. The following are hereby incorporated by reference as a part of this rule:

- (1) Standard CEA-2009, "Receiver Performance Specification for Public Alert Receivers," published by the Consumer Electronics Association. Two (2) copies of these standards are available for reference at the department. Copies may be obtained from the Consumer Electronics Association, 1919 South Eads Street, Arlington, VA 22202.
- (2) Standard Z308.1-2003, "Minimum Requirements for Workplace First Aid Kits," published by the American National Standards Institute. Two (2) copies of these standards are available for reference at the department. Copies may be obtained from the International Safety Equipment Association, 1901 North Moore Street, Suite 808, Arlington, VA 22209.

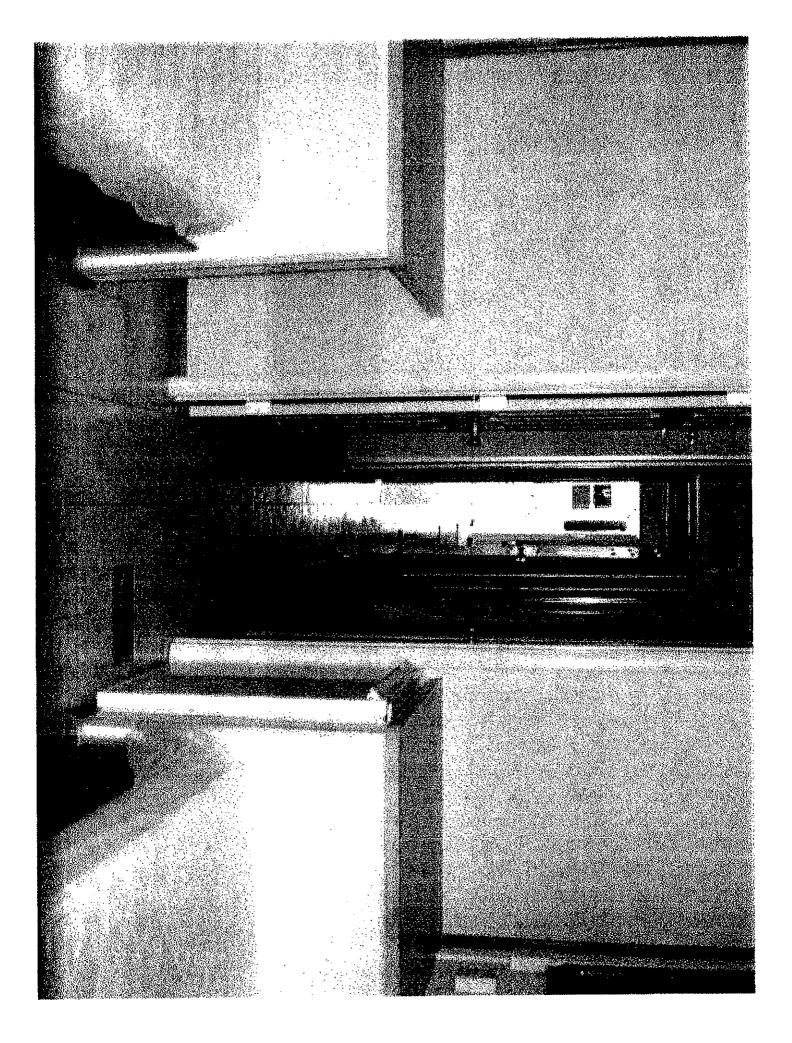
(Indiana State Department of Health; 410 IAC 6-14-25)

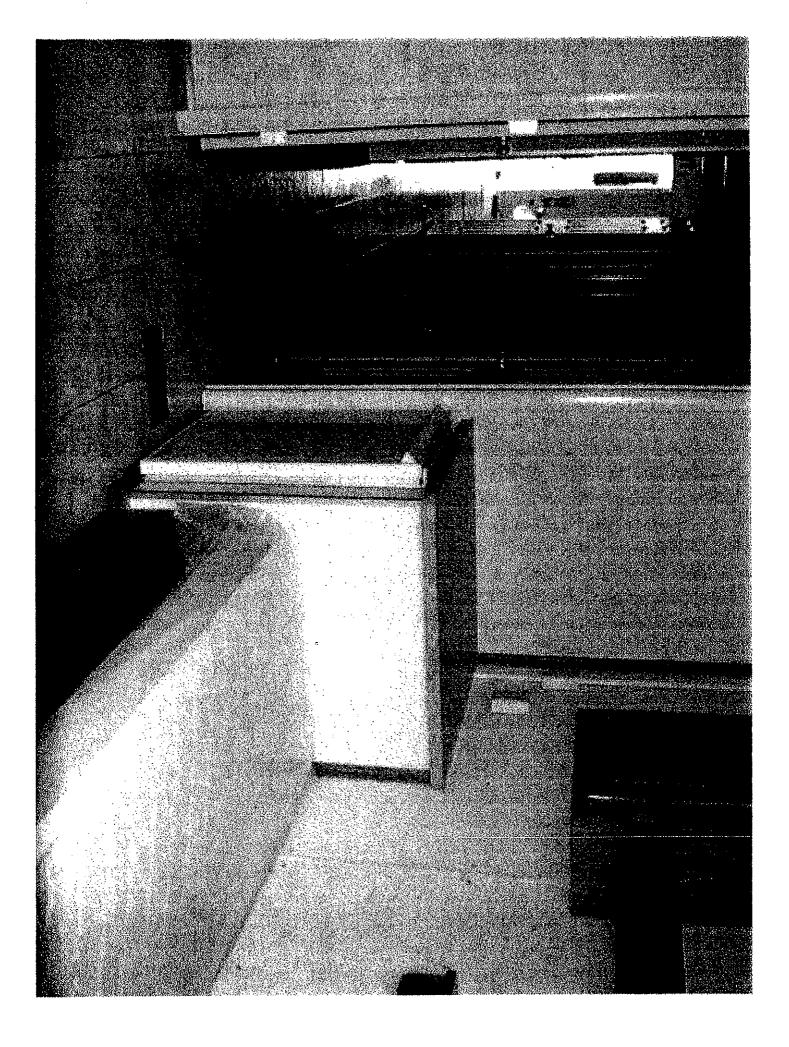
Insert: In the case of an emergency, the Railroad Company will have the right to appeal to the Office of the Governor for a suspension waiver of the rulemakings for the duration of a natural or man-made emergency.

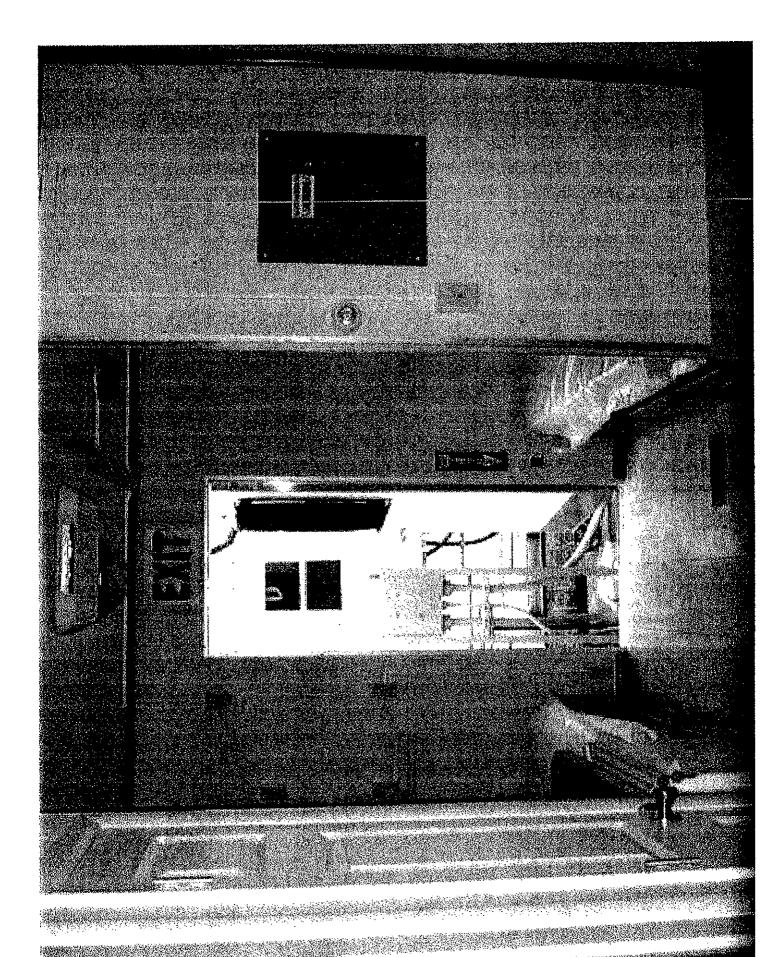
NS explanation for the addition of this proposed section: In case of an emergency that would include, but not limited to: flooding, a tornado, an earthquake, or perhaps a man-made emergency allowing the Railroad Company the right to mobilize and set up these mobile camps expeditiously an attend to the letter of the rulemaking when the emergency has been lifted.

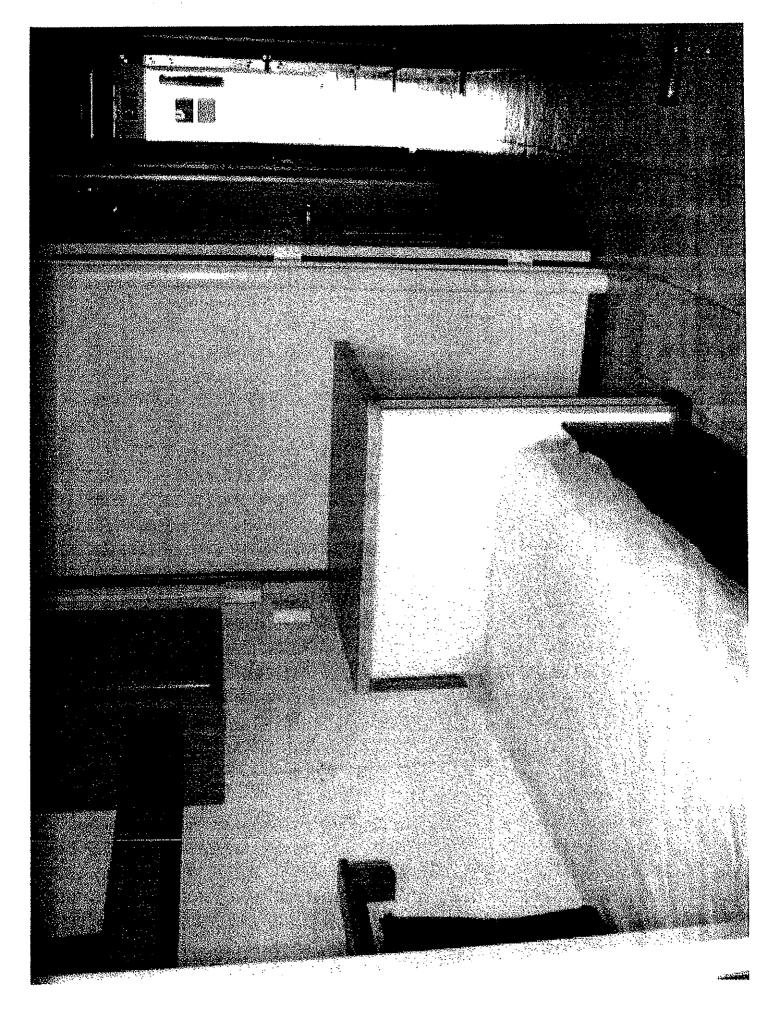
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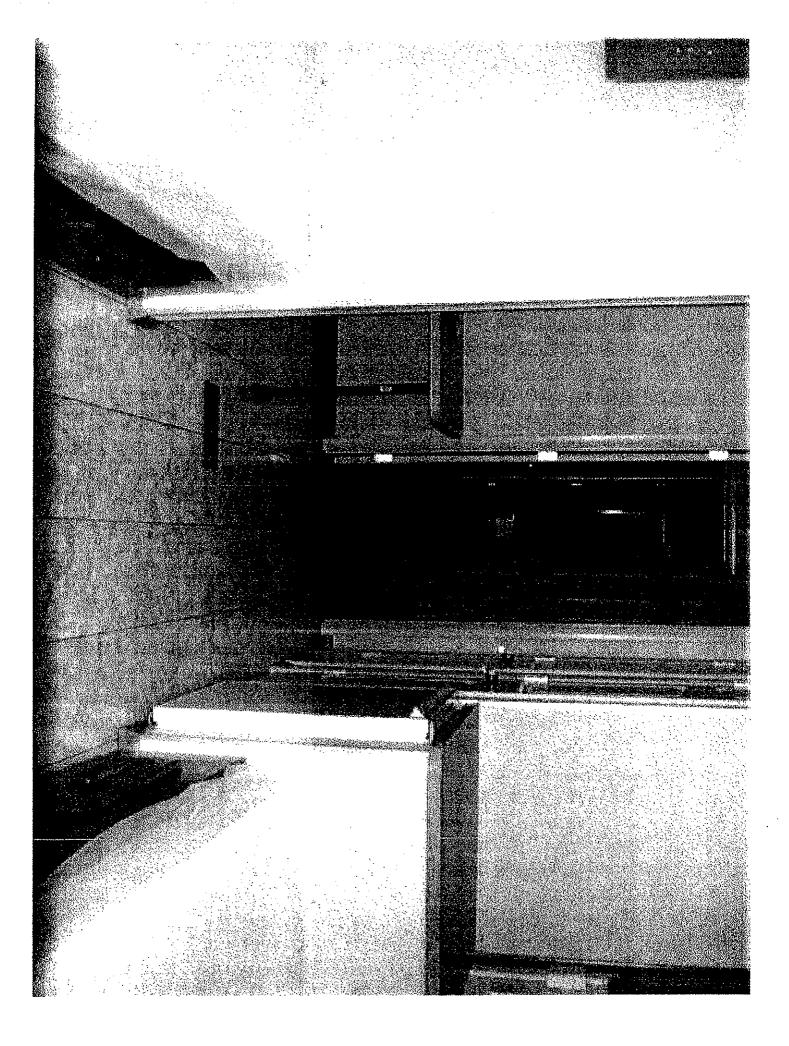
R-11 Kitchen & Diner Rebuilt, May 17th

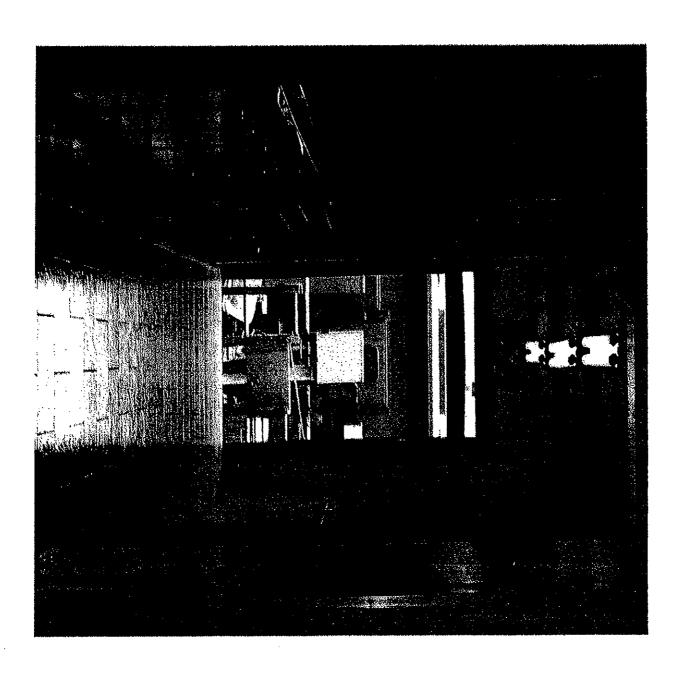


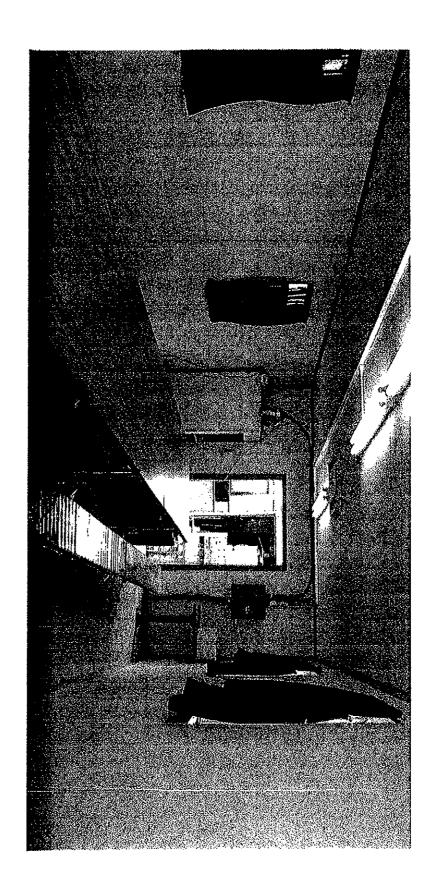




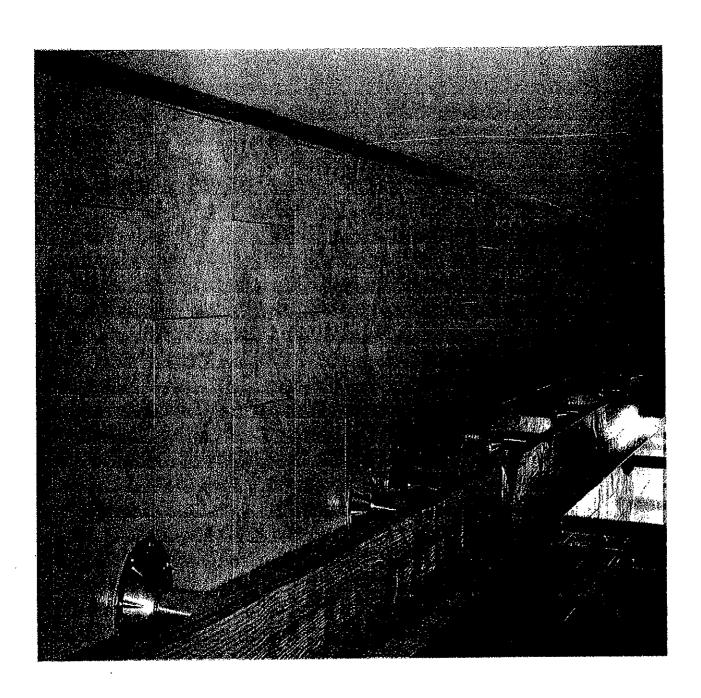


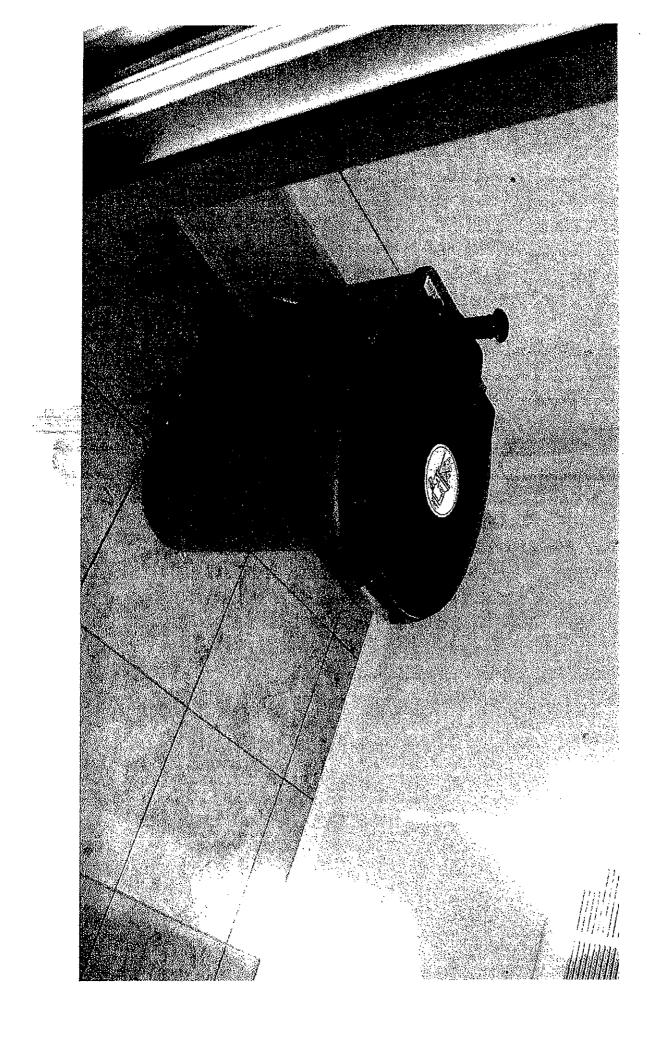


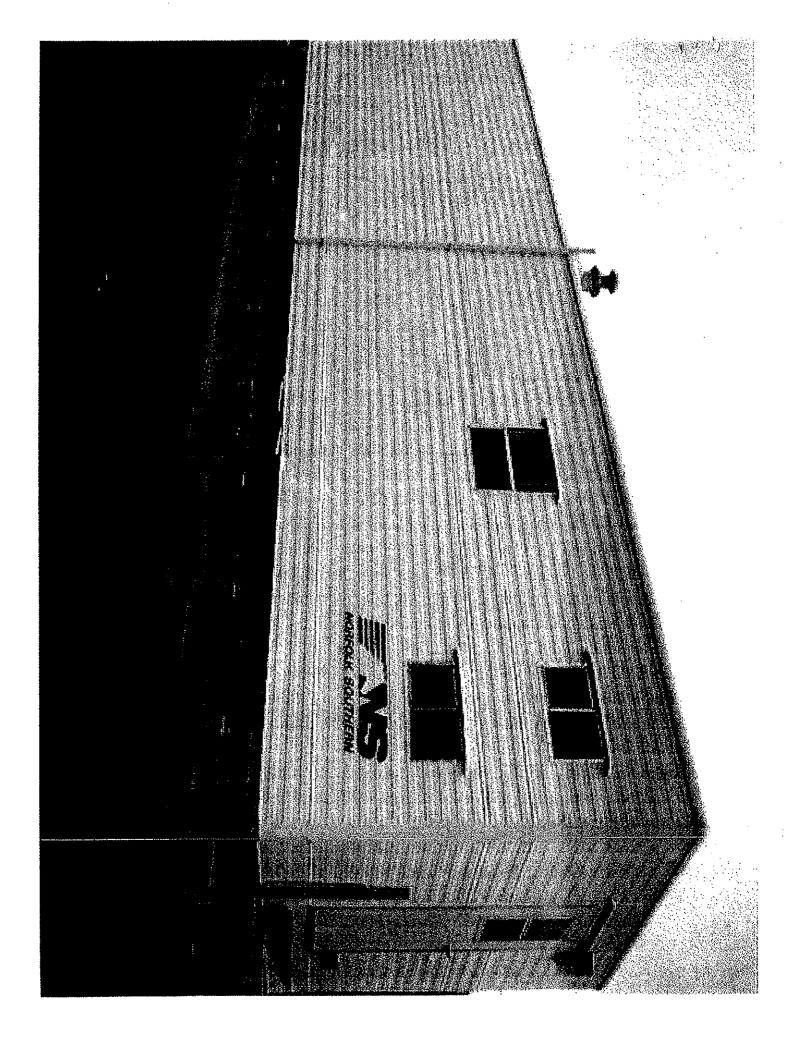


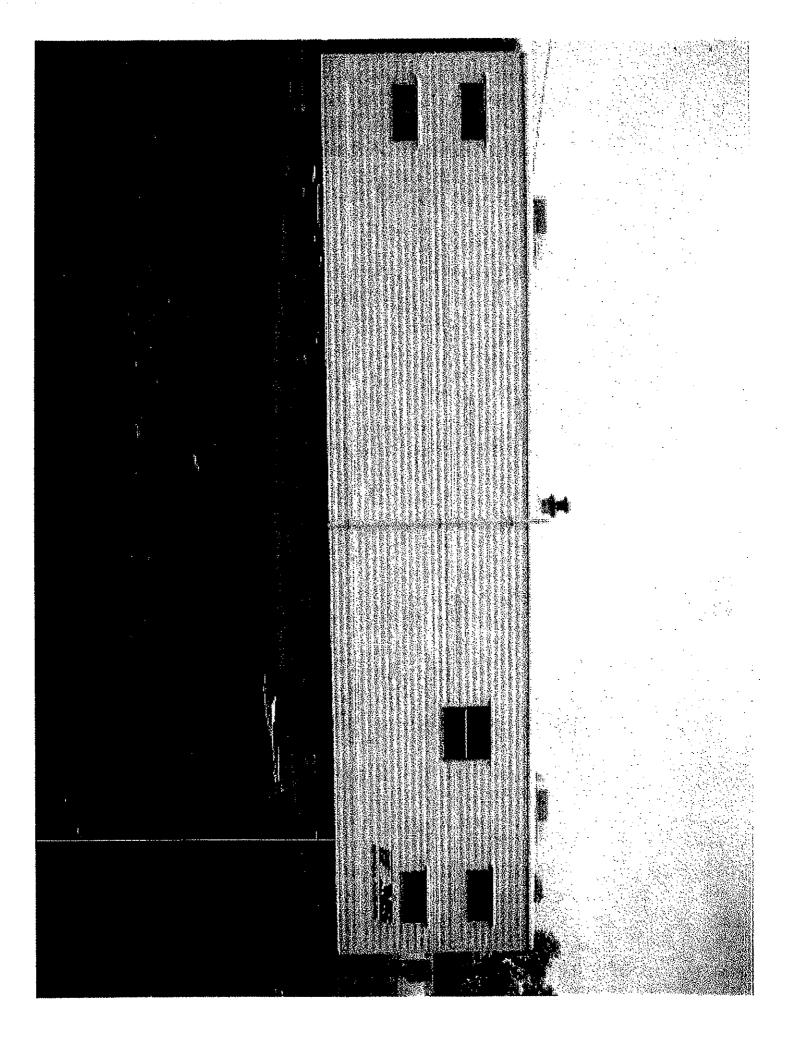


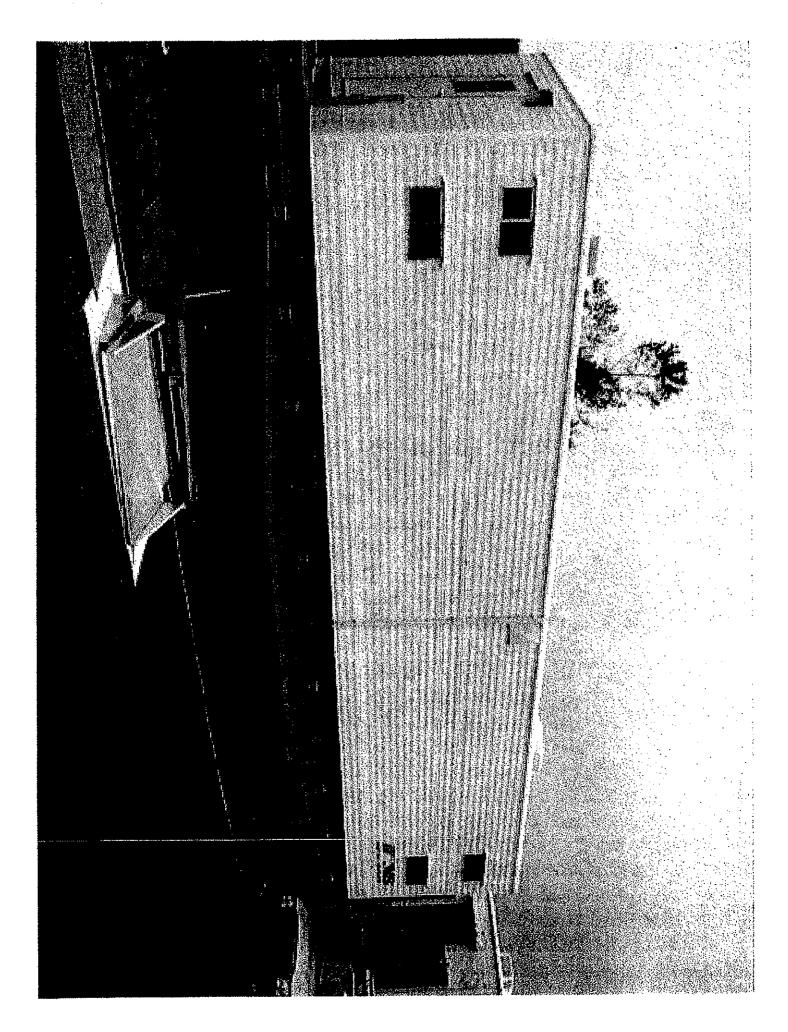


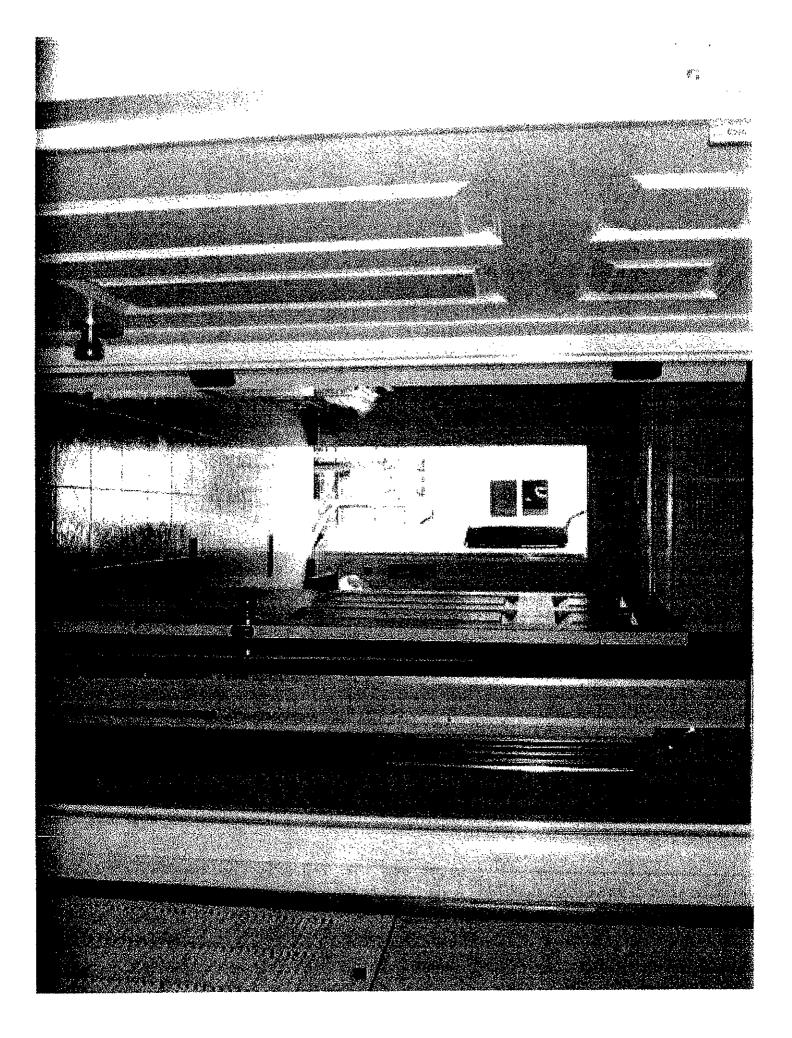


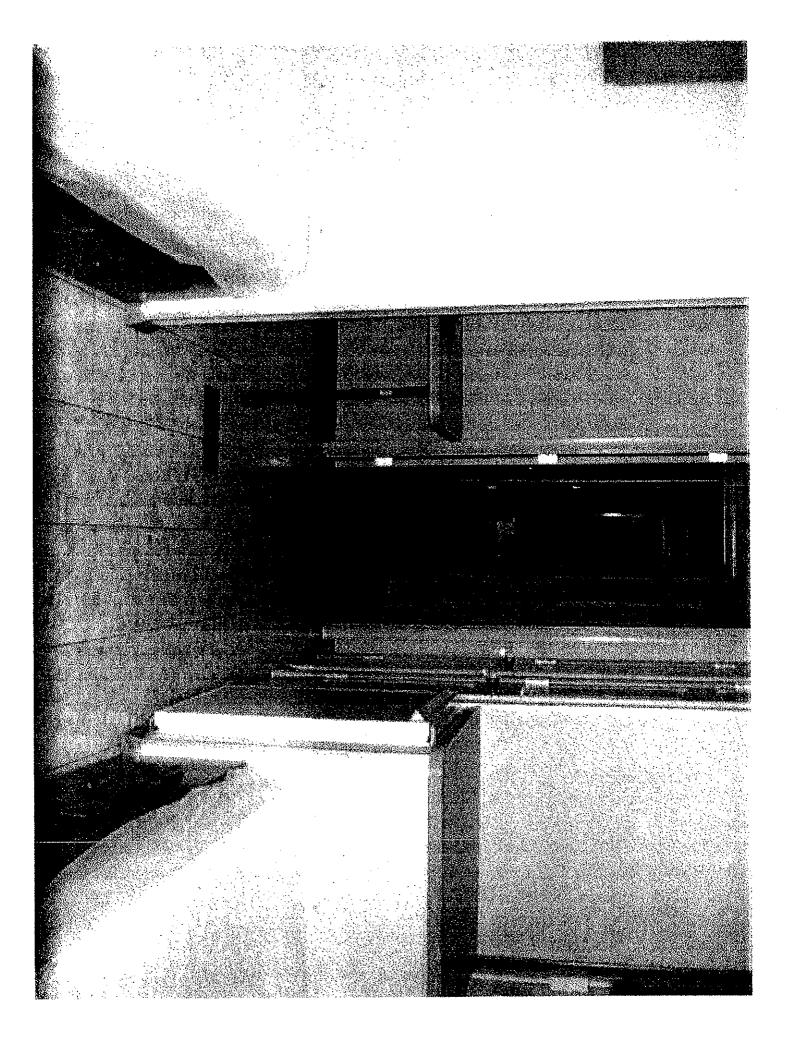




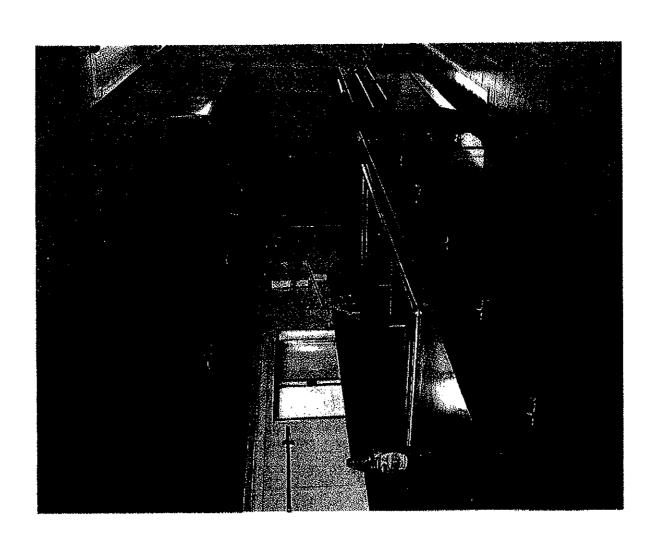


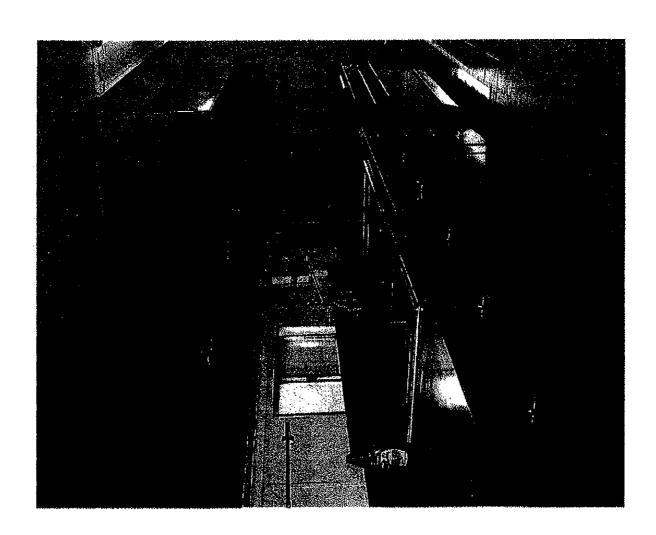


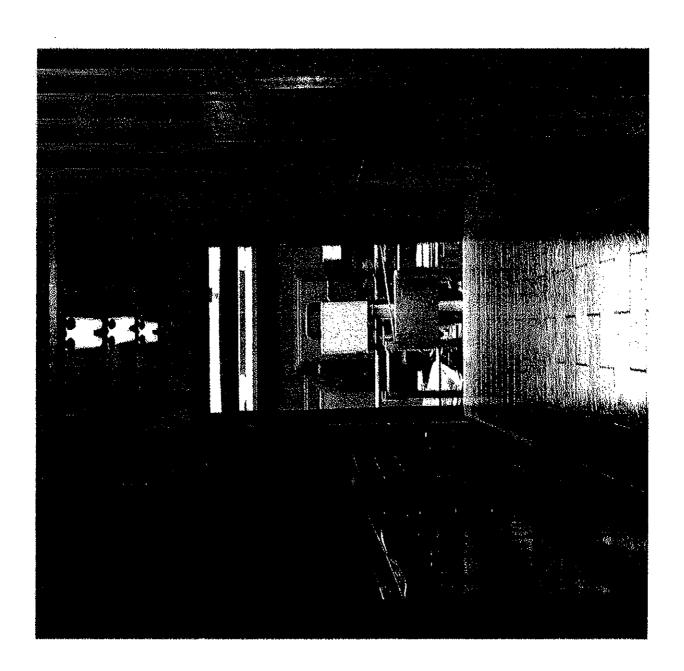


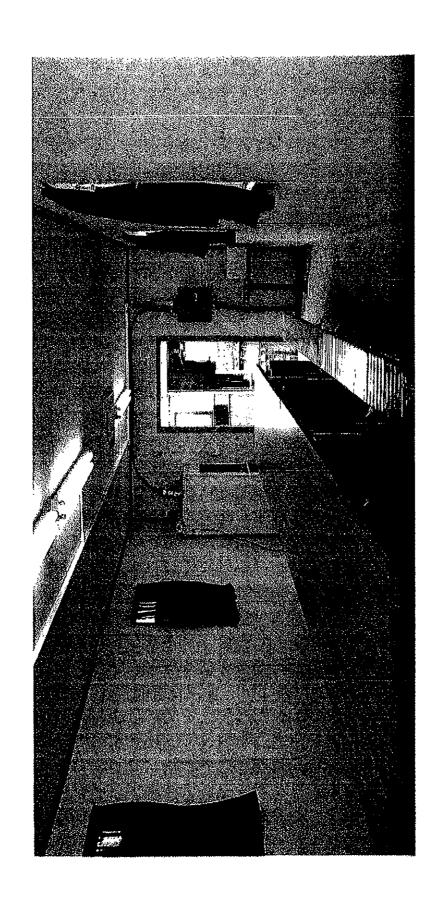


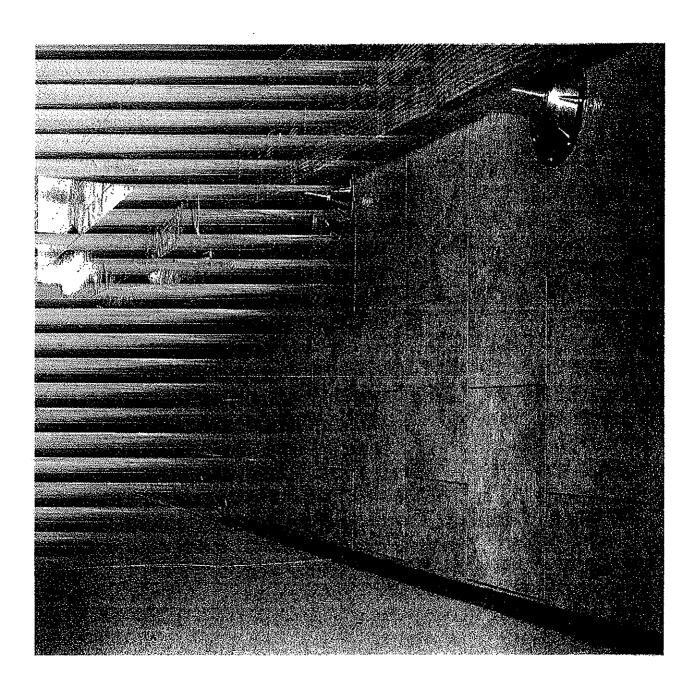
R-11 Kitchen & Diner Rebuilt, May 17th.

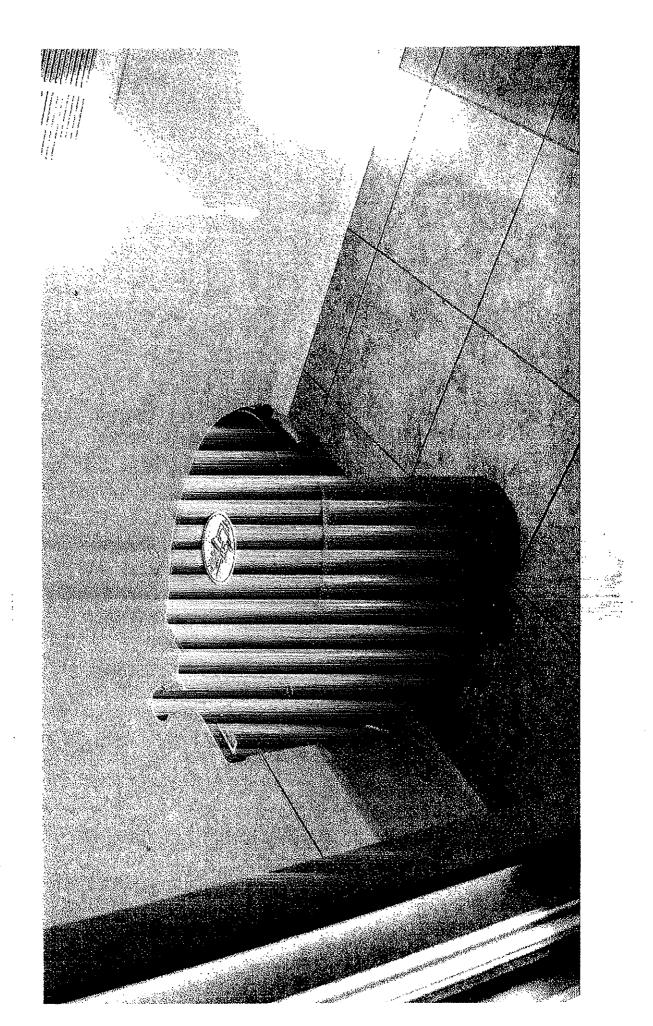


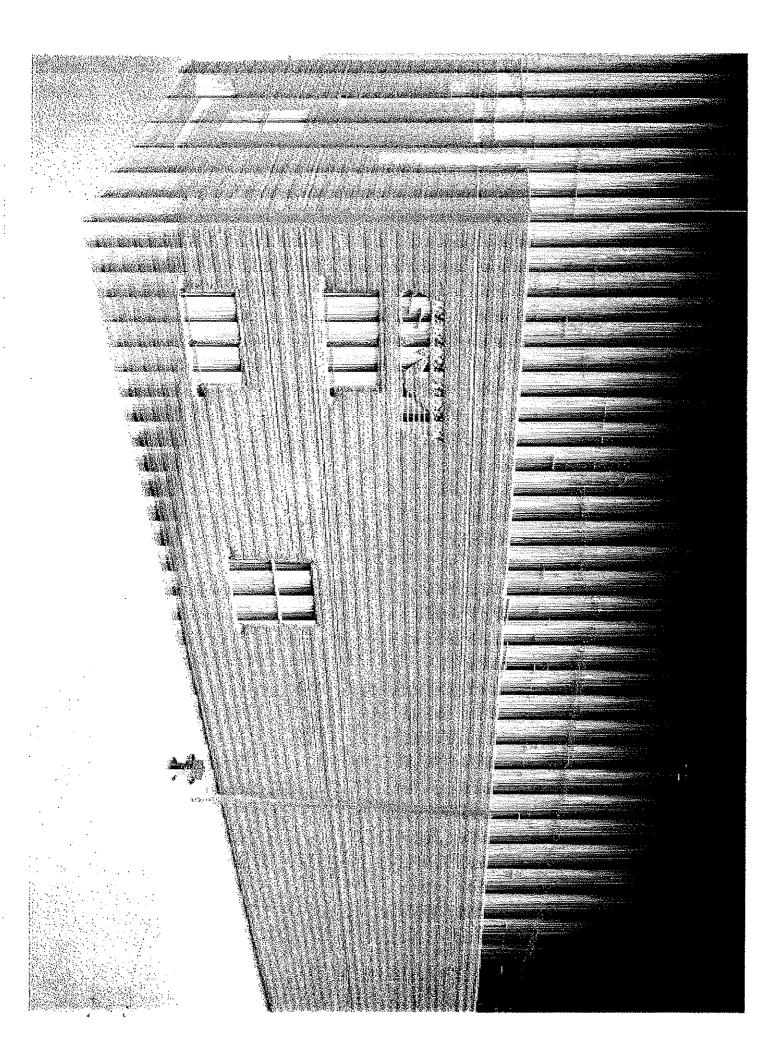


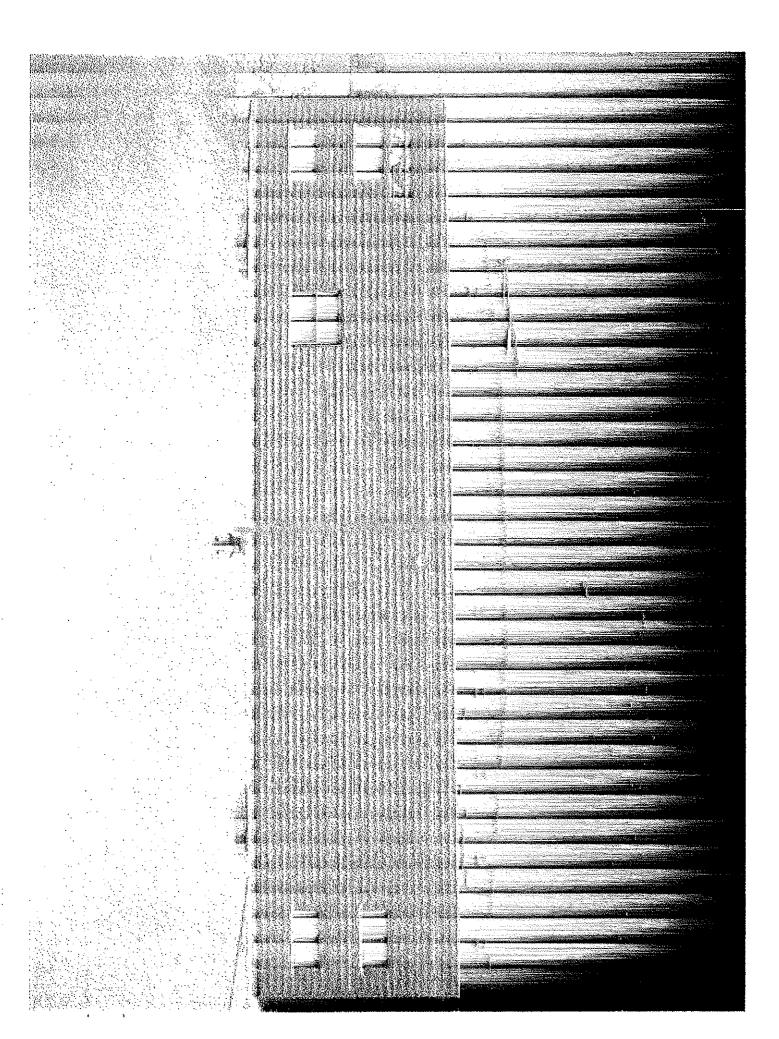


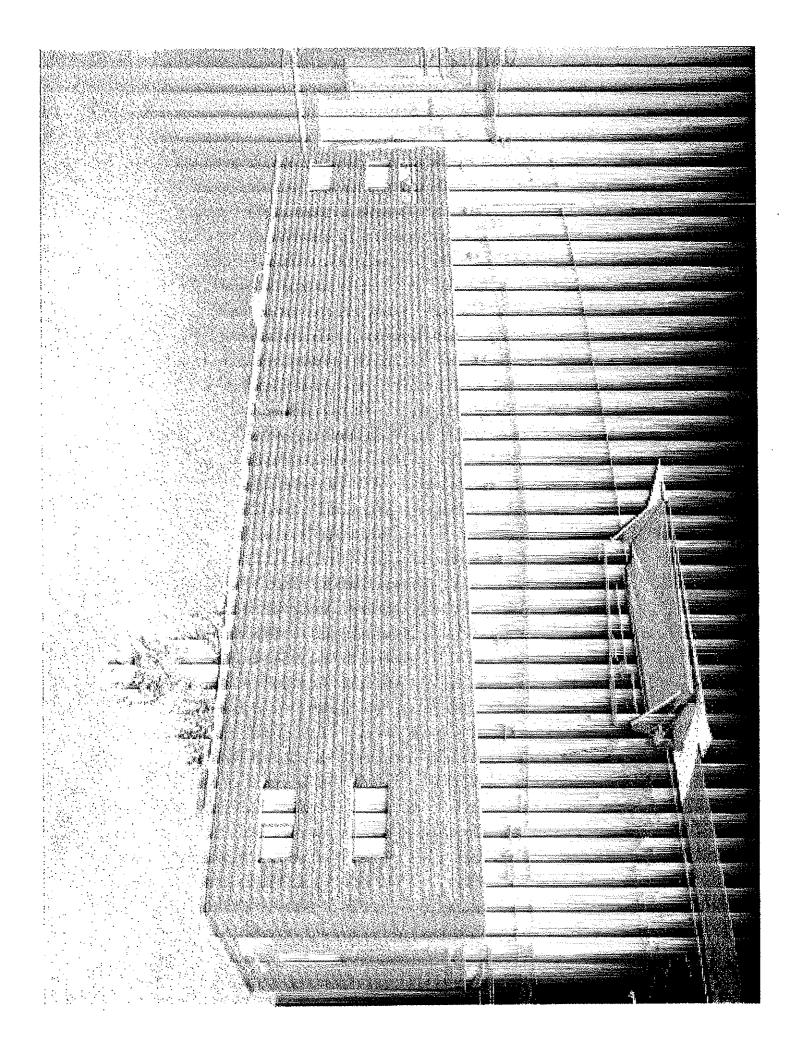


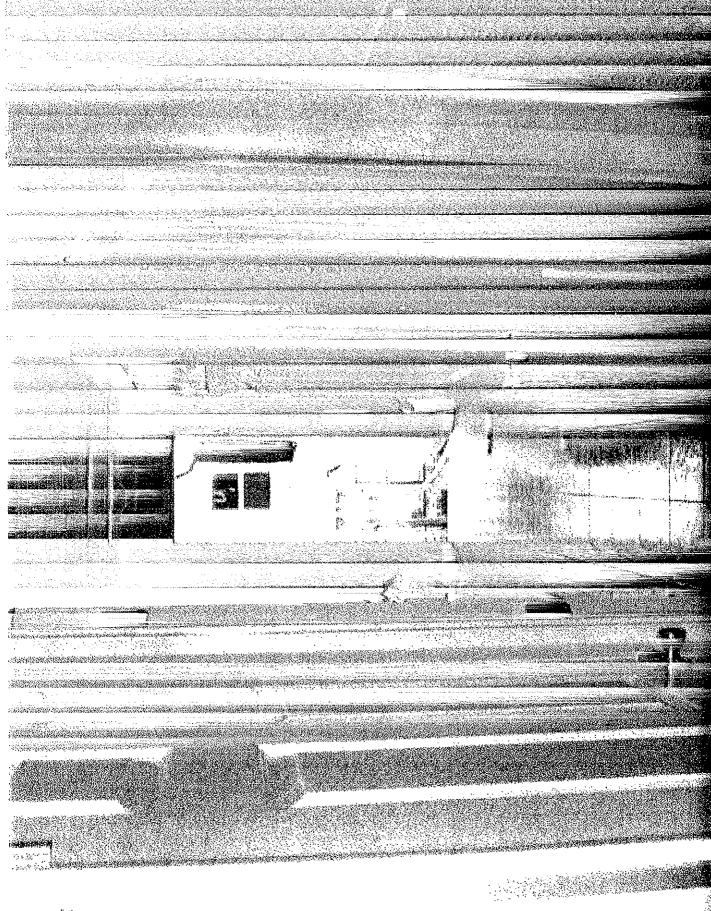


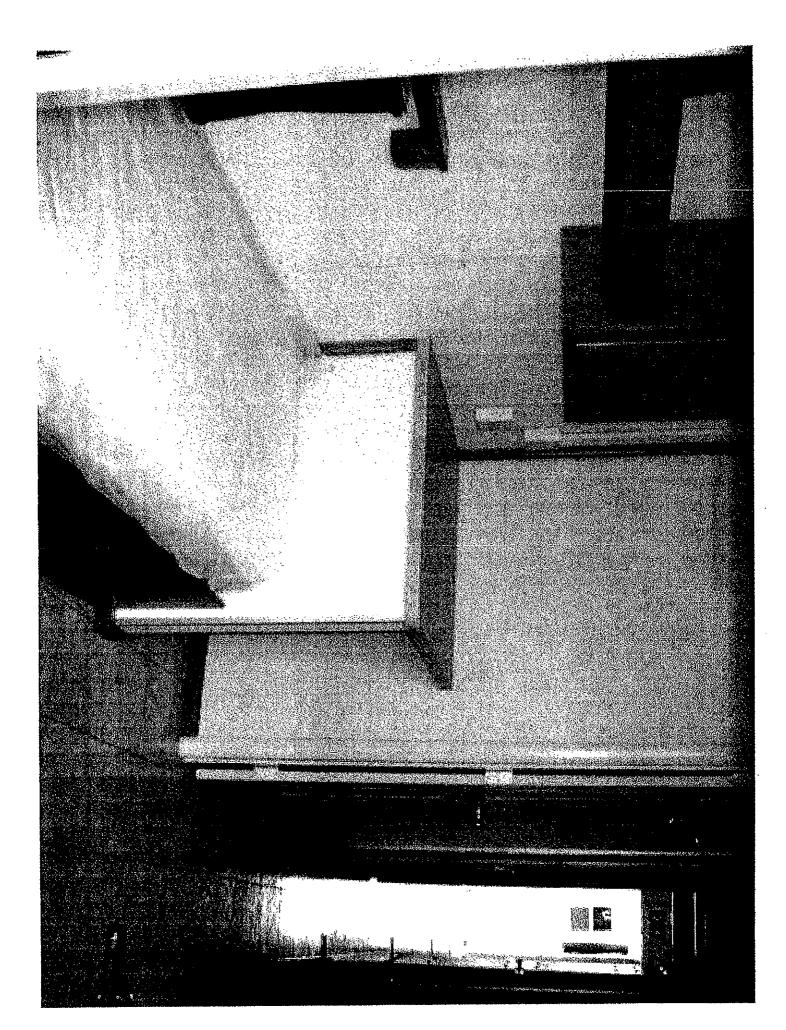


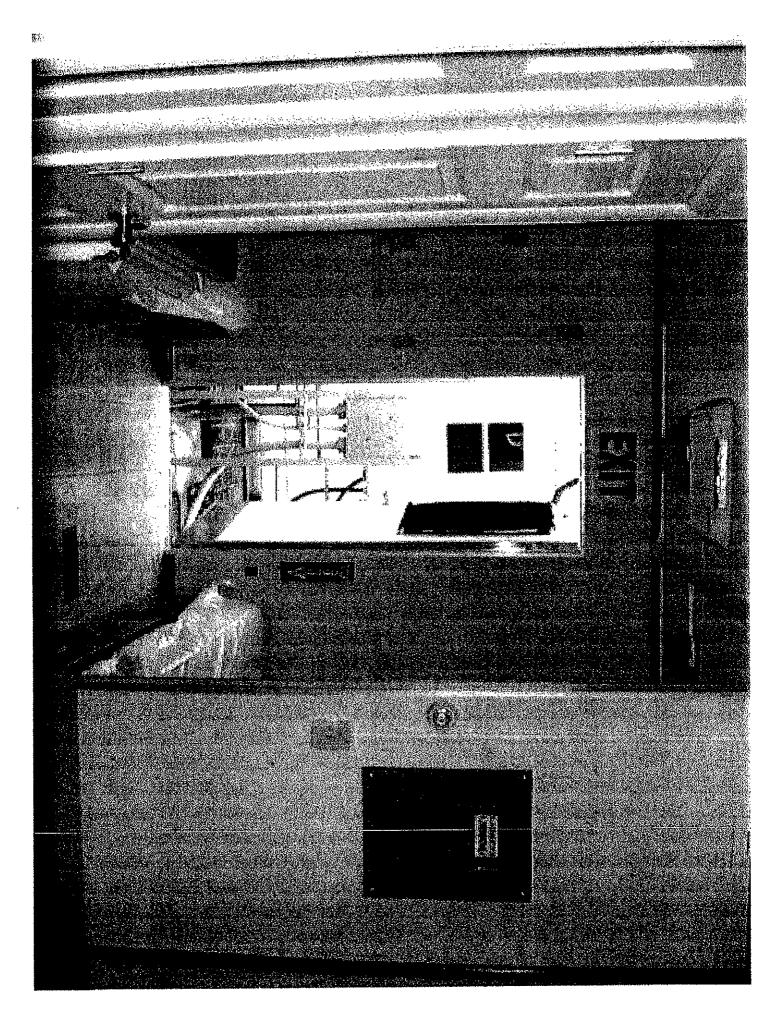


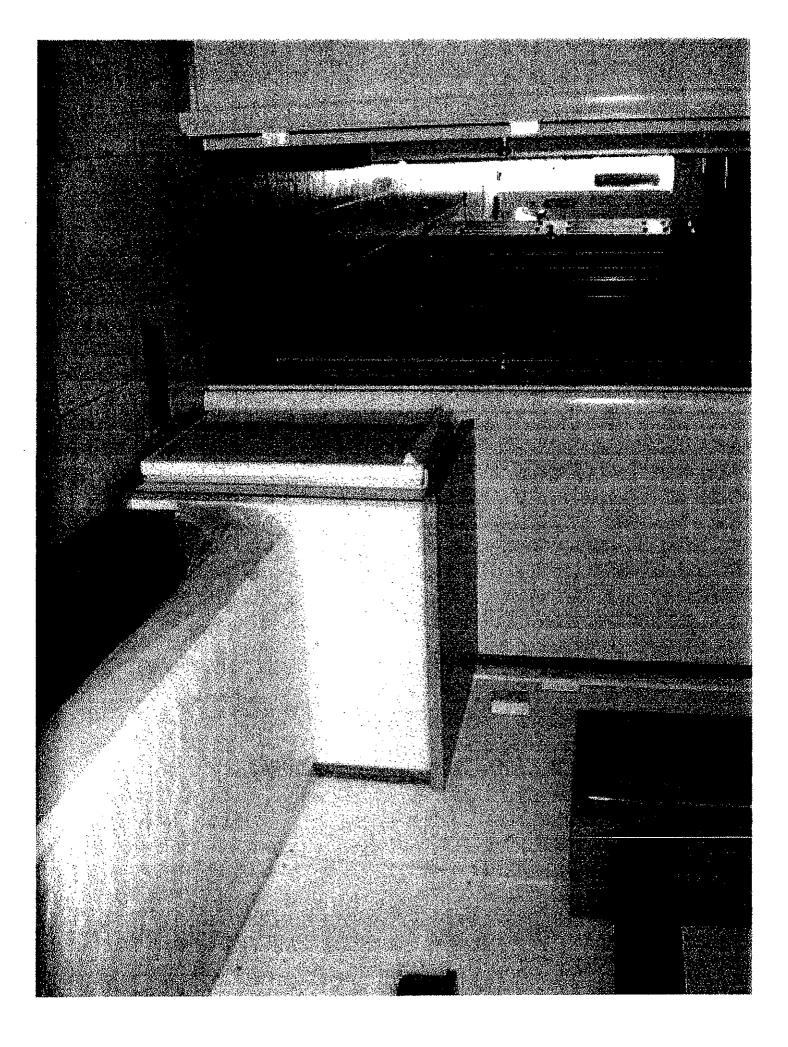


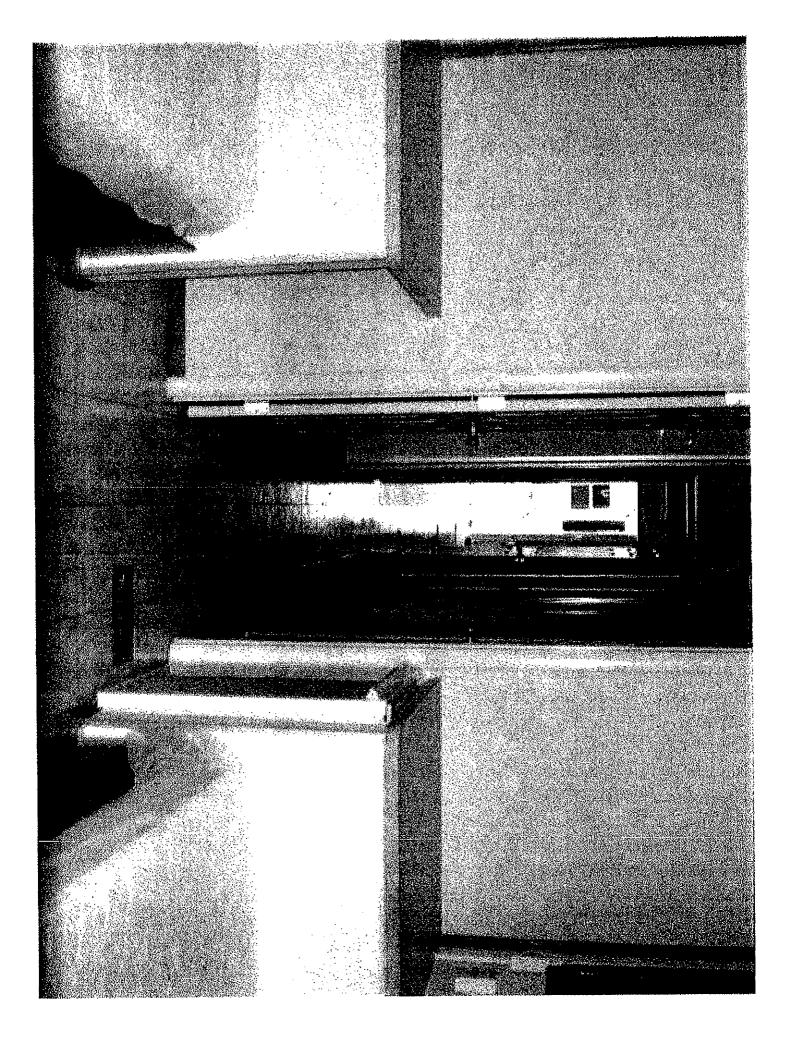
















STATE OF INDIANA HOUSE OF REPRESENTATIVES

THIRD FLOOR STATE HOUSE INDIANAPOLIS, INDIANA 46204

Matt Bell 9890 E 200 s Avilla, IN 46710 Website: www.in.gov/h83 800-382-9841

COMMITTEES: Public Policy: RMM Labor and Employment Family, Children and Human Affairs

June 16, 2008

Mr. Terry Whitson Assistant Commissioner Indiana State Department of Health Health Care Regulatory Services Commission 2 North Meridian Street, 5A Indianapolis, IN 46204

Dear Mr. Whitson,

Thank you for taking the time to read this letter addressing the proposed preliminary rule regarding railroad mobile camps. We appreciate your efforts and the time you and your staff have spent on this matter.

Industry Representatives of Norfolk Southern have been in close contact with us over the past few weeks to share a few concerns with the preliminary draft and to discuss some possible changes that we believe would increase the level of safety at these rail camps. As you know, Norfolk Southern's major concern is IC 16-19-3-4.4(c)(4)(A) and (B) which addresses mobile camp inspections. The current draft allows for independent inspections without the presence of a railroad company or union representative. We wholeheartedly agree with Norfolk Southern that safety and security at these camp locations is of the utmost importance to not only the railroad company's employees but also the local health officials who will be inspecting these camps, and we are completely supportive of suggested changes.

Again, thank you for your time and consideration. We appreciate your openness in this process and your willingness to accept suggestions so that we may arrive at our mutually desired goal of safe and healthy working conditions for all. If we can answer any questions, please don't hesitate to contact us.

Sincerely,

Matt Bell

State Representative

District 83

/Jerry/Torr

State Representative

District 39



Whitson, Terry

From:

KKreczmer@elkhartcounty.com

Sent:

Thursday, June 19, 2008 9:34 AM

To:

Cundiff, Howard; Whitson, Terry

Subject:

RE: railway rule

Attachments: Comments on Railway Rule.doc

Howard

Most of these comments are not directed towards you. I really feel that LDH got railroaded by the railway union and am certainly not happy about it.

Karla Kreczmer

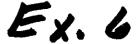
Elkhart County Health Department

Environmental Health Services, Manager

Comments on Railway Rule

I don't know enough about all the aspects of which this rule requires to be inspected to know if this rule has any problems or issues. I do see and problems with the whole implementation of this rule. Man power for one thing. We do not have the staff or the resources to implement this program and it will require resources: time, equipment, people, and money.

- 1. Why are local health departments required to inspect these mobile camps? These camps are more like migrant worker camps, which are State inspected, than anything the local health department has to inspect. In fact the rule requires inspection of electrical, gas, fire protection and safety, physical facilities: air conditioning; heating; amount of windows, floor space; amount of toilets, showers; special hazards and sleeping facilities. These are all more related to building department requirements than health department requirements. Now we are looking at training LHD to do the same jobs that ISDH is already doing for migrant worker camps. This not only requires double duty but is a waste of time and money.
- 2. Why are local health departments required to inspect these mobile camps? They are mobile, traveling from county to county at least every other week. I see this as a futile attempt and a waste of time as there is no consistency from county to county and there is no reasonable way to verify correction of violations or lack there of from inspection to inspection or county to county.
- 3. Supposedly this is not going to cost any money but it most certainly will. In order to enforce this rule, counties will have to adopt an ordinance which takes a considerable amount of time and money. Without an ordinance there is no enforcement, if there is no enforcement there is no reason to do inspections because they will still do what they want to anyway. Also you now have the railway having to pay a different fee for every county they go into. This places an undo financial burden on the rail company. With the State inspecting them they would have one fee and a more reasonable amount of consistent inspections with opportunity to verify corrections.
- 4. Since when did railway camps became a public health issue? They are not serving the public like a foodservice or hotel (which by the way are not inspected). If workers don't like the conditions they can leave. I thought OSHA was in charge of workers issues.
- 5. What kinds of form will be used to do inspection? Will the inspectors be required to use several different forms or just learn numerous code numbers to write a verbal report? Who will do the training and how will it be done? What will happen if the LHD doesn't do these inspections?





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DATE:

June 18, 2008

TO:

Indiana State Department of Health - Administrative Law Judge and/or

ISDH Executive Board

FROM:

Mindy Waldron, REHS, CFSP

Department Administrator

260-449-7578

mindy.waldron@co.allen.in.us

SUBJECT:

Proposed "Camp Car Rule" Comments during public hearing phase

Thank you in advance for your consideration of these comments as we have some serious concerns with regard to the proposed "Camp Car Rule". Please do not hesitate to contact me with additional questions regarding my comments. I had hoped to attend the hearing in person, but was scheduled for a presentation to our County Council for funding at the same time. My apologies!

In May, I was contacted by a Teamster's Union Representative regarding the pending new rule on railroad camp cars. He asked me something about "had we been notified about the camp cars that had arrived in Allen County per state law and were we going to inspect them". I indicated that I didn't believe we were responsible for doing so — to which he replied that there had been new legislation enacted in 2007 that dealt with these facilities. I asked that he send me any documentation to that effect so I could investigate. He kindly sent me IC 8-9-10 and from there, I contacted Mr. Howard Cundiff with the Indiana State Department of Health (ISDH). Howard was kind enough to answer all of my questions and to provide me with a copy of the draft rule being written by ISDH.

After reading through the proposed rule and other related legislation, after consultation with several of my internal staff members who would be responsible for these inspections if the rule passes, and after speaking with other health departments in the state — I'd like to offer the following comments and questions for consideration before passing the proposed rule:

Proposed 410 IAC 6-14 Comments:

General Comments:

 Many areas of the rule were, I'm told, based on existing sections of other Indiana Administrative Rules for which ISDH is responsible with respect to enforcement. As such, there are things that local health departments have never dealt with and have little knowledge of and will now be responsible for enforcing. Further, some issues in the rule deal with items that are under the jurisdiction of other entities in Allen County such as the Fire Department and the Building Department. Examples are issues dealing with: fire, electrical, rail car equipment, air/ventilation of these units, etc. Although Mr. Cundiff indicated they would provide training for us, this comes as just one more unfunded mandate at a very critical time with respect to local health department funding (re: property tax caps) where more staffing cuts are imminent. Further, although Mr. Cundiff indicated that local health departments "are under no more, or no less obligation, to enforce this new law than [they] are to enforce any other Indiana health statute", my concern with his statement is that proposed 410 IAC 6-14-10 (a) specifically states "This rule SHALL be enforced by local health officers under IC and IC 16-22-8-34(a)(22)" and IC 16-19-3-4.4(b) 16-20-19 specifically states "The rules adopted...SHALL be enforced by local health officers..." Therefore, I do not see that it is any way a choice to provide these inspections.

- 2. There has been no notification to local health departments (at least to my knowledge) of this pending rule which would have allowed these comments to be considered and potentially incorporated with support. All too often, the Indiana State Department of Health (and other legislative bodies for that matter) pass rules/laws for which local health departments become responsible for enforcing - with absolutely no general notification of upcoming changes. Changes like these may seem small and easy to incorporate - but I assure you, they are not. We will need to enact an ordinance to define the fee structure and enforcement mechanisms for the Camp Car Rule as they are not delineated in the ISDH rule. We will need to divert already taxed staff members to these inspections. We will need to undergo training to learn new areas associated with railroad entities and these camp car rules to adequately provide an appropriate inspection. We will need to expend local monies and a great deal of time in administrative hours if and when we become engaged in any enforcement issues of noncompliance with respect to this rule.
- 3. Having spoken with other local health department staff who have conducted inspections on these camp cars safety of our employees seems to be a cause for concern. Some departments have had to resort to having police escorts when conducting the inspections because the local health department seems to be put in the middle of the battle that exists between the railroad owners and railroad staff and the union. This is not a good working environment. Therefore, we will most likely have to send more than one staff member for safety reasons alone and potentially may need to involve local law enforcement.
- 4. Further, due to so many areas of environmental and safety being covered in this proposed rule we will need to create an inspection "team" comprised of *at least* one person knowledgeable in pollution

- control issues (the sewage rules) and one person knowledgeable in the food protection rules. These inspections will take quite some time seeing as there are so many parameters requiring checking, measuring, documentation, etc.
- 5. In conclusion on my general comments, I question why this inspection responsibility should not be done by either the ISDH or Department of Transportation. I say this because railroad camp cars and the associated inspectional issues are so similar to migrant labor camps and so forth which ARE inspected by ISDH staff. This seems to be an area that should be handled purely by ISDH.

Costs that will likely be incurred by the Local Health Department upon passage of this rule to begin implementation/enforcement:

- (1) Costs associated with creating and printing new inspection forms in triplicate.
- (2) Costs associated with adoption of an ordinance to allow for fee collection.
- (3) Costs associated with creating a new portion of our software program to print permits and receipts for this new permit.
- (4) Costs associated with creating a new portion of our environmental software platform (database) for data input following inspection and data retrieval for tracking, enforcement, legal activities, etc.
- (5) Costs associated with multiple staff attending ISDH training that will most likely be part of this new responsibility.
- (6) Costs associated with the actual conducting of the inspection and follow-up inspection(s).
- (7) Costs associated with legal fees incurred when attempting to enforce issues of non-compliance.
- (8) Costs associated with the purchase of any new equipment needed to adequately measure the parameters required under the rule not currently owned by local health department.
- (9) Fuel costs associated with inspection and follow-up inspection(s).

Specific Comments:

- 1. Section 11(c) Does the ISDH plan to define "reasonably level"?
- 2. Section 12(a)(1) I have serious concerns about local health departments being responsible for making determinations on conditions of exterior walls of rail cars.
- 3. Section 12(a)(b) Does ISDH plan to define "adequate arrangements for storing clothing and personal effects"?
- 4. Section 12(c) Is there a definition of "aggregate glazed area"?

- 5. Section 12(e) How do you measure the air replacement requirements with regard to ventilation as stated in this paragraph as well as paragraph (f)? Will it require an equipment purchase?
- 6. Section 12(1) Regarding the allowance to have the lavatory/sink located in an adjacent room can there be a door between the two rooms or must it be open/absent so as to prevent contamination of the door from unwashed hands as is usual the rule of thumb under the food rules (more or less)?
- 7. Section 13 I take from this, more or less, they must comply with the Food Rules. Under which type of food establishment definition (under IAC 7-24) do these facilities qualify? They appear to be more like a "mobile food establishment", but they wouldn't meet the required commissary rules. We will need to know which rules to enforce with them with respect to the Food Rules referenced. This will be critical!
- 8. Section 16(a) How do we measure water pressure on the water supply? We can do this in food establishments where gauges are provided on warewashing machines but how does one measure this parameter referenced in this section? Will it require an equipment purchase (such as most likely an equipment purchase will be required to provided measurement of space between beds, ceiling issues, etc.)?
- 9. Section 18 and 21 Speaking specifically about Allen County, the fire departments have jurisdiction over issues related to fire safety and fire hazards. This area could not be commented on by our local health department as that would need to be done by the Fire Department. Whose responsibility would it be to ensure this is done? The local health department?
- 10. Section 19 and 20 -- Speaking specifically about Allen County, the Allen County Building Department has jurisdiction over issues related to electrical requirements, utilities such as gas, and such. These areas could not be commented on by our local health department as that would need to be done by the Building Department. Whose responsibility would it be to ensure this is done? The local health department?
- 11. Section 23 How is it that: (a) Local Health Departments will know what the condition of the area is prior to the camp car's arrival which would be used as the benchmark to enforce the provision in this section with regard to returning it to the "original condition"?; (b) Would this not require a second inspection to ensure this provision is met?; and (c) If the camp car has vacated the location and the LHD determines that the property was not returned to its original condition, how would we proceed with enforcement with no one on site? This section will be extremely difficult to adequately enforce and will for us to include an extra amount in all inspection fees should a second inspection be warranted.

Again, I very much appreciate the opportunity to make these comments and would respectfully request some sort of follow-up to these comments as to their outcome and/or proposed solution. I would be more than happy to answer any questions you may have. I wish you the best of luck in making the appropriate decision with regard to this new rule.